

By: Senator(s) Wiggins, Sparks, Boyd

To: Judiciary, Division A

SENATE BILL NO. 2792
(As Sent to Governor)

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 OF AGE OR OLDER IN AN
6 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS PROCEEDING; TO PROVIDE
7 THAT THE MINOR CHILD SHALL BE REPRESENTED BY COUNSEL THROUGHOUT
8 THE PROCEEDINGS; TO REQUIRE THE COURT TO CONSIDER THE CHILD'S
9 PREFERENCES, IF ANY, IF THE CHILD IS 14 YEARS OF AGE OR OLDER AT
10 THE TIME OF THE HEARING; TO PROVIDE THAT THE STYLE OF THE CASE
11 SHALL NOT INCLUDE THE CHILD'S NAME; TO REQUIRE A COURT TO HOLD A
12 HEARING ON THE PETITION WITHIN A CERTAIN PERIOD OF DAYS; TO
13 AUTHORIZE THE COURT TO CONTINUE THE HEARING UNDER CERTAIN
14 CIRCUMSTANCES; TO AMEND SECTION 93-15-111, MISSISSIPPI CODE OF
15 1972, TO REQUIRE A COURT TO ACCEPT A PARENT'S WRITTEN VOLUNTARY
16 RELEASE TERMINATING PARENTAL RIGHTS IF CERTAIN REQUIREMENTS ARE
17 MET; TO AMEND SECTION 43-21-201, MISSISSIPPI CODE OF 1972, TO
18 REQUIRE A YOUTH COURT JUDGE TO APPOINT COUNSEL FOR AN INDIGENT
19 CUSTODIAL PARENT OR GUARDIAN WHO IS A PARTY IN AN ABUSE, NEGLECT
20 OR TERMINATION OF PARENTAL RIGHTS PROCEEDING; TO AUTHORIZE A YOUTH
21 COURT JUDGE TO APPOINT COUNSEL FOR AN INDIGENT NONCUSTODIAL PARENT
22 IF THE YOUTH COURT JUDGE DETERMINES THAT THE PARENT HAS
23 DEMONSTRATED A SIGNIFICANT CUSTODIAL RELATIONSHIP WITH THE CHILD;
24 TO CLARIFY THE DUTY OF AN ATTORNEY UNDER THE SECTION; TO REQUIRE A
25 FINANCIALLY ABLE PARENT TO PAY FOR COURT-APPOINTED REPRESENTATION
26 OR SOME PORTION THEREOF; TO REQUIRE MONIES COLLECTED TO BE
27 DEPOSITED INTO A SPECIAL FUND TO BE KNOWN AS THE "JUVENILE COURT
28 REPRESENTATION FUND"; TO PROVIDE THAT MONIES IN THE FUND MAY BE
29 USED BY THE COURT TO COVER THE COSTS OF COUNSEL IN INDIGENT CASES;
30 TO PROVIDE THAT THE DEPARTMENT OF CHILD PROTECTION SERVICES SHALL
31 HAVE THE RIGHT TO HIRE AGENCY COUNSEL TO REPRESENT THE DEPARTMENT
32 AND BE REPRESENTED BY COUNSEL FROM THE ATTORNEY GENERAL'S OFFICE
33 AT ALL STAGES OF THE PROCEEDINGS INVOLVING A CHILD FOR WHOM THE
34 DEPARTMENT HAS CUSTODY OF OR MAY BE AWARDED CUSTODY OF; TO AMEND



35 SECTION 43-21-105, MISSISSIPPI CODE OF 1972, TO REVISE THE
36 DEFINITION OF "NEGLECTED CHILD" AND "REASONABLE EFFORTS"; TO AMEND
37 SECTION 43-21-151, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
38 JURISDICTION OF THE YOUTH COURT SHALL ATTACH AT THE TIME OF THE
39 OFFENSE, OR AT THE TIME OF THE ALLEGATION OF ABUSE, NEGLECT OR
40 EXPLOITATION; TO CREATE A NEW SECTION WITHIN TITLE 93, CHAPTER 15,
41 MISSISSIPPI CODE OF 1972, TO PROVIDE A NONCOMPREHENSIVE LIST OF
42 REASONS THAT WOULD CONSTITUTE COMPELLING AND EXTRAORDINARY REASONS
43 WHY TERMINATION OF PARENTAL RIGHTS WOULD NOT BE IN THE CHILD'S
44 BEST INTERESTS; TO AMEND SECTION 43-21-613, MISSISSIPPI CODE OF
45 1972, TO REVISE THE TIMELINE FOR AND FREQUENCY OF PERMANENCY
46 HEARINGS; TO AMEND SECTION 93-15-121, MISSISSIPPI CODE OF 1972, TO
47 CLARIFY A GROUND FOR THE TERMINATION OF A PARENT'S PARENTAL
48 RIGHTS; TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
49 CONFORM THE SECTION TO THE REVISED DEFINITION OF "NEGLECTED
50 CHILD"; TO DEFINE "TORTURE" FOR THE PURPOSES OF FELONY CHILD
51 ABUSE; TO AMEND SECTION 43-21-651, MISSISSIPPI CODE OF 1972, TO
52 CLARIFY THE RIGHT OF APPEAL FROM YOUTH COURT; TO AMEND SECTION
53 43-21-351, MISSISSIPPI CODE OF 1972, TO REQUIRE YOUTH COURT INTAKE
54 OFFICERS TO RECEIVE TRAINING ON MYCIDS; TO REQUIRE THE MISSISSIPPI
55 JUDICIAL COLLEGE, IN CONJUNCTION WITH THE ADMINISTRATIVE OFFICE OF
56 COURTS, TO DEVELOP TRAINING MATERIALS ON MYCIDS; TO AMEND SECTION
57 43-21-801, MISSISSIPPI CODE OF 1972, TO REQUIRE YOUTH COURT JUDGES
58 TO RECEIVE AT LEAST ONE HOUR OF ANNUAL CONTINUING EDUCATION
59 CONCERNING OVERSIGHT OF YOUTH COURT INTAKE OFFICERS AND MYCIDS; TO
60 AMEND SECTIONS 43-21-301, 43-21-303 AND 93-17-3, MISSISSIPPI CODE
61 OF 1972, TO CONFORM; TO AMEND SECTIONS 89-2-3 AND 89-2-25,
62 MISSISSIPPI CODE OF 1972, TO ADD CYCLING TO THE ACTIVITIES EXEMPT
63 FROM LIABILITY FOR RECREATIONAL LANDOWNERS; AND FOR RELATED
64 PURPOSES.

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

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

68 **[From and after January 1, 2024, and through December 31,**
69 **2027, this section shall read as follows:]**

70 25-7-9. (1) The clerks of the chancery courts shall charge
71 the following fees:

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



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

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

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

83 (ii) Recording each oil and gas assignment,
84 amendment of assignment, release, etc., first five (5)
85 pages.....\$ 25.00

86 per additional assignee.....\$ 18.00

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

88 (iv) Sectional index entries per section or
89 subdivision lot.....\$ 1.00

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

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

94 (d) (i) Furnishing copies of any papers of record or
95 on file:

96 If performed by the clerk or his employee,
97 per page.....\$.50

98 If performed by any other person,



99 per page.....\$.25

100 (ii) Entering marginal notations on

101 documents of record.....\$ 1.00

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

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

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

105 supervisors an allowance shall be made to him (payable

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

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

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

109 be approved by the chancellor:

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

111 deputies, each.....\$ 85.00

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

113 Provided that the fees herein prescribed shall be the total

114 remuneration for the clerk and his deputies for attending chancery

115 court.

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

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

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

119 (i) For public service not otherwise specifically

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

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

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



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

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

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

141 (3) For every civil case filed:

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

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



148 (4) Cost of process shall be borne by the issuing party.
149 Additionally, should the attorney or person filing the pleadings
150 desire the clerk to pay the cost to the sheriff for serving
151 process on one (1) person or more, or to pay the cost of
152 publication, the clerk shall demand the actual charges therefor,
153 at the time of filing.

154 (5) For each civil case filed including an adoption
155 involving the Department of Child Protection Services, the filing
156 shall be exempt from any fee under this section.

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

159 25-7-9. (1) The clerks of the chancery courts shall charge
160 the following fees:

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

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

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

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



172 (ii) Recording each oil and gas assignment,
 173 amendment of assignment, release, etc., first five (5)
 174 pages.....\$ 25.00
 175 per additional assignee.....\$ 18.00
 176 (iii) Each additional page.....\$ 1.00
 177 (iv) Sectional index entries per section or
 178 subdivision lot.....\$ 1.00
 179 (v) Archive fee.....\$ 1.00
 180 (vi) Entering marginal notations, if requested on
 181 document or by cover letter, pertaining to the recording of any
 182 oil and gas document only per book and page.....\$ 4.00
 183 (d) (i) Furnishing copies of any papers of record or
 184 on file:
 185 If performed by the clerk or his employee,
 186 per page.....\$.50
 187 If performed by any other person,
 188 per page.....\$.25
 189 (ii) Entering marginal notations on
 190 documents of record.....\$ 1.00
 191 (e) For attending the board of supervisors' meeting an
 192 annual sum not exceeding.....\$ 5,000.00
 193 (f) For other services as clerk of the board of
 194 supervisors an allowance shall be made to him (payable
 195 semiannually at the July and January meetings) out of the county
 196 treasury, an annual sum not exceeding.....\$10,000.00



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

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

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

202 Provided that the fees herein prescribed shall be the total
203 remuneration for the clerk and his deputies for attending chancery
204 court.

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

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

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

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

219 (2) The following fee shall be a total fee for all services
220 performed by the clerk with respect to any civil case filed that
221 includes, but is not limited to, divorce, alteration of birth or



222 marriage certificate, removal of minority, guardianship or
223 conservatorship, estate of deceased, adoption that does not
224 involve the Department of Child Protection Services, land dispute
225 injunction, settlement of small claim, contempt, modification,
226 partition suit, or commitment, which shall be payable upon filing
227 and shall accrue to the chancery clerk at the time of filing. The
228 clerk or his successor in office shall perform all duties set
229 forth without additional compensation or fee.....\$ 85.00

230 (3) For every civil case filed:

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

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

237 (4) Cost of process shall be borne by the issuing party.
238 Additionally, should the attorney or person filing the pleadings
239 desire the clerk to pay the cost to the sheriff for serving
240 process on one (1) person or more, or to pay the cost of
241 publication, the clerk shall demand the actual charges therefor,
242 at the time of filing.

243 (5) For each civil case filed including an adoption
244 involving the Department of Child Protection Services, the filing
245 shall be exempt from any fee under this section.



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

248 93-15-107. (1) (a) Involuntary termination of parental
249 rights proceedings are commenced upon the filing of a petition
250 under this chapter. The petition may be filed by any interested
251 person, or any agency, institution or person holding custody of
252 the child. The simultaneous filing of a petition for adoption is
253 not a prerequisite for filing a petition under this chapter.

254 (b) The proceeding shall be triable, either in term
255 time or vacation, thirty (30) days after personal service of
256 process to any necessary party or, for a necessary party whose
257 address is unknown after diligent search, thirty (30) days after
258 the date of the first publication of service of process by
259 publication that complies with the Mississippi Rules of Civil
260 Procedure.

261 (c) Necessary parties to a termination of parental
262 rights action shall include the mother of the child, the legal
263 father of the child, the putative father of the child when known,
264 and any agency, institution or person holding custody of the
265 child. If the child is twelve (12) years or older at the time of
266 the hearing, a summons must be issued and served upon the minor
267 child, together with a copy of the petition, not less than seven
268 (7) days before the hearing. The minor child shall be represented
269 by counsel throughout the proceedings. The court shall appoint an
270 attorney for any minor child who is unrepresented, so the court



271 has the benefit of knowing the child's stated interest. If the
272 child is fourteen (14) years or older at the time of the hearing,
273 the child's preferences, if any, regarding the termination of
274 parental rights shall be considered by the court. The absence of
275 a necessary party who has been properly served does not preclude
276 the court from conducting the hearing or rendering a final
277 judgment.

278 (d) A guardian ad litem shall be appointed to protect
279 the best interest of the child, except that the court, in its
280 discretion, may waive this requirement when a parent executes a
281 written voluntary release to terminate parental rights. The
282 guardian ad litem fees shall be determined and assessed in the
283 discretion of the court.

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

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

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

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

293 (5) The clerk shall docket cases seeking relief under this
294 chapter as priority cases. The assigned judge shall be



295 immediately notified when a case is filed in order to provide for
296 expedited proceedings.

297 (6) (a) Once the petition for termination of parental
298 rights is filed with the court of competent jurisdiction, the
299 court shall hold a hearing on the petition within ninety (90)
300 calendar days of the date the petition is filed, absent
301 extraordinary circumstances.

302 (b) For purposes of this subsection, the
303 ninety-calendar-day time period will commence when perfected
304 service is made on the parents.

305 (c) For purposes of this subsection, extraordinary
306 circumstances include:

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

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

310 1. The President of the United States has
311 declared a national emergency; or

312 2. The Governor has declared a state of
313 emergency or a statewide public health emergency; or

314 (iii) If the best interest of the child is served
315 and the chancellor makes specific findings of such.

316 **SECTION 3.** Section 93-15-111, Mississippi Code of 1972, is
317 amended as follows:



318 93-15-111. (1) The court * * * shall accept the parent's
319 written voluntary release if it meets the following minimum
320 requirements:

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

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

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

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

330 (e) States the parent's consent to adoption of the
331 child and waiver of service of process for any future adoption
332 proceedings;

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

338 (g) Acknowledges that all provisions of the written
339 voluntary release were entered into knowingly, intelligently, and
340 voluntarily; and

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



343 (2) The court's order accepting the parent's written
344 voluntary release terminates all of the parent's parental rights
345 to the child, including, but not limited to, the parental right to
346 control or withhold consent to an adoption. * * * The written
347 voluntary release shall serve as a waiver of the parent's right to
348 have a hearing on acceptance of the release.

349 **SECTION 4.** Section 43-21-201, Mississippi Code of 1972, is
350 amended as follows:

351 43-21-201. (1) (a) Each party shall have the right to be
352 represented by counsel at all stages of the proceedings including,
353 but not limited to, detention, shelter, adjudicatory and
354 disposition hearings and parole or probation revocation
355 proceedings.

356 (b) In delinquency matters the court shall appoint
357 legal defense counsel who is not also a guardian ad litem for the
358 same child. If the party is a child, the child shall be
359 represented by counsel at all critical stages: detention,
360 adjudicatory and disposition hearings; parole or probation
361 revocation proceedings; and post-disposition matters. If
362 indigent, the child shall have the right to have counsel appointed
363 for him by the youth court.

364 (c) A child who is alleged to have been abused or
365 neglected shall be deemed to be a party to the proceedings under
366 this chapter. The child shall be represented by an attorney at



367 all stages of any proceedings held pursuant to this chapter. The
368 court shall appoint an attorney to any child who is unrepresented.

369 The guardian ad litem may serve a dual role as long as no
370 conflict of interest is present. If a conflict of interest
371 arises, the guardian ad litem shall inform the youth court of the
372 conflict, and the youth court shall retain the guardian ad litem
373 to represent the best interest of the child and appoint an
374 attorney to represent the child's preferences as required by
375 Uniform Rule of Youth Court Practice 13(f).

376 (2) (a) When a party first appears before the youth court,
377 the judge shall ascertain whether he is represented by counsel
378 and, if not, inform him of his rights including his right to
379 counsel. If the court determines that a custodial parent or
380 guardian who is a party in an abuse, neglect or termination of
381 parental rights proceeding is indigent, the youth court
382 judge * * * shall appoint counsel to represent the indigent parent
383 or guardian in the proceeding. The court may appoint counsel to
384 represent a noncustodial parent if the court determines that the
385 noncustodial parent is indigent and has demonstrated a significant
386 custodial relationship with the child. All parents have the right
387 to be appointed counsel in termination of parental rights
388 hearings, and the court shall appoint counsel if the court makes a
389 finding that the parent is indigent and counsel is requested by
390 the parent. For purposes of this section, indigency shall be



391 determined pursuant to Section 25-32-9 and Rule 7.3 of the
392 Mississippi Rules of Criminal Procedure.

393 (b) (i) The court shall order a financially able
394 parent or custodian to pay all or part of reasonable attorney's
395 fees and expenses for court-appointed representation after review
396 by the court of an affidavit of financial means completed and
397 verified by a parent or custodian and a determination by the court
398 of an ability to pay.

399 (ii) All monies collected by the clerk under this
400 paragraph must be retained by the clerk and deposited into a
401 special fund to be known as the "Juvenile Court Representation
402 Fund."

403 (iii) The Administrative Office of Courts may
404 direct that money from the fund be used in providing counsel for
405 indigent parents or custodians at the trial level in
406 dependency-neglect proceedings.

407 (iv) Upon a determination of indigency and a
408 finding by the court that the fund does not have sufficient funds
409 to pay reasonable attorney's fees and expenses incurred at the
410 trial court level and that state funds have been exhausted, the
411 court may order the county to pay the reasonable fees and expenses
412 until the state provides funding for counsel.

413 (v) A special fund, to be designated as the
414 "Juvenile Court Representation Fund," is created within the State
415 Treasury. The fund shall be maintained by the State Treasurer as



416 a separate and special fund, separate and apart from the General
417 Fund of the state. Monies in the fund shall be disbursed by the
418 Administrative Office of Courts as provided in this section.
419 Unexpended amounts remaining in the fund at the end of a fiscal
420 year shall not lapse into the State General Fund, and any interest
421 earned or investment earnings on amounts in the fund shall be
422 deposited into such fund.

423 (3) An attorney appointed to represent a child shall be
424 required to complete annual juvenile justice training that is
425 approved by the Mississippi Office of State Public Defender and
426 the Mississippi Commission on Continuing Legal Education. An
427 attorney appointed to represent a parent or guardian in an abuse,
428 neglect or termination of parental rights proceeding shall be
429 required to complete annual training that is approved by the
430 Office of State Public Defender and the Mississippi Commission on
431 Continuing Legal Education. The Mississippi Office of State
432 Public Defender and the Mississippi Commission on Continuing Legal
433 Education shall determine the amount of juvenile justice training
434 and continuing education required to fulfill the requirements of
435 this subsection. The State Public Defender shall maintain a roll
436 of attorneys who have complied with the training requirements and
437 shall enforce the provisions of this subsection. Should an
438 attorney fail to complete the annual training requirement or fail
439 to attend the required training within six (6) months of being
440 appointed to a youth court case, the attorney shall be



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

445 (4) Attorney's for all parties, including the child's
446 attorney, shall owe the * * * duties of undivided loyalty,
447 confidentiality and competent representation to the * * * party
448 client pursuant to the Mississippi Rules of Professional Conduct.

449 (5) An attorney shall enter his appearance on behalf of a
450 party in the proceeding by filing a written notice of appearance
451 with the youth court, by filing a pleading, notice or motion
452 signed by counsel or by appearing in open court and advising the
453 youth court that he is representing a party. After counsel has
454 entered his appearance, he shall be served with copies of all
455 subsequent pleadings, motions and notices required to be served on
456 the party he represents. An attorney who has entered his
457 appearance shall not be permitted to withdraw from the case until
458 a timely appeal, if any, has been decided, except by leave of the
459 court then exercising jurisdiction of the cause after notice of
460 his intended withdrawal is served by him on the party he
461 represents.

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



465 (7) The Department of Child Protection Services shall be a
466 necessary party at all stages of the proceedings involving a child
467 for whom the department has custody, including, but not limited
468 to, detention, shelter, adjudicatory, disposition,
469 permanency * * *, termination of parental rights and adoption
470 hearings.

471 (8) The Department of Child Protection Services shall have
472 the right to hire agency counsel to represent the department and
473 be represented by counsel from the Attorney General's Office at
474 all stages of the proceedings involving a child for whom the
475 department has custody of or may be awarded custody of, including,
476 but not limited to, detention shelter, adjudicatory disposition,
477 permanency, termination of parental rights and adoption hearings.

478 **SECTION 5.** Section 43-21-105, Mississippi Code of 1972, is
479 amended as follows:

480 43-21-105. The following words and phrases, for purposes of
481 this chapter, shall have the meanings ascribed herein unless the
482 context clearly otherwise requires:

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

484 (b) "Judge" means the judge of the Youth Court
485 Division.

486 (c) "Designee" means any person that the judge appoints
487 to perform a duty which this chapter requires to be done by the
488 judge or his designee. The judge may not appoint a person who is
489 involved in law enforcement or who is an employee of the



490 Mississippi Department of Human Services or the Mississippi
491 Department of Child Protection Services to be his designee.

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

497 (e) "Parent" means the father or mother to whom the
498 child has been born, or the father or mother by whom the child has
499 been legally adopted.

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

502 (g) "Custodian" means any person having the present
503 care or custody of a child whether such person be a parent or
504 otherwise.

505 (h) "Legal custodian" means a court-appointed custodian
506 of the child.

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

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



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

518 (i) Is habitually disobedient of reasonable and
519 lawful commands of his parent, guardian or custodian and is
520 ungovernable; or

521 (ii) While being required to attend school,
522 willfully and habitually violates the rules thereof or willfully
523 and habitually absents himself therefrom; or

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

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

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

527 (i) Whose parent, guardian or custodian or any
528 person responsible for his care or support, neglects or refuses,
529 when able so to do, to provide for him proper and necessary care
530 or support, or education as required by law, or medical, surgical,
531 or other care necessary for his well-being; however, a parent who
532 withholds medical treatment from any child who in good faith is
533 under treatment by spiritual means alone through prayer in
534 accordance with the tenets and practices of a recognized church or
535 religious denomination by a duly accredited practitioner thereof
536 shall not, for that reason alone, be considered to be neglectful
537 under any provision of this chapter; or

538 (ii) Who is otherwise without proper care,
539 custody, supervision or support; or



540 (iii) Who, for any reason, lacks the special care
541 made necessary for him by reason of his mental condition, whether
542 the mental condition is having mental illness or having an
543 intellectual disability; or

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

550 (m) "Abused child" means a child whose parent, guardian
551 or custodian or any person responsible for his care or support,
552 whether legally obligated to do so or not, has caused or allowed
553 to be caused, upon the child, sexual abuse, sexual exploitation,
554 commercial sexual exploitation, emotional abuse, mental injury,
555 nonaccidental physical injury or other maltreatment. However,
556 physical discipline, including spanking, performed on a child by a
557 parent, guardian or custodian in a reasonable manner shall not be
558 deemed abuse under this section. "Abused child" also means a
559 child who is or has been trafficked within the meaning of the
560 Mississippi Human Trafficking Act by any person, without regard to
561 the relationship of the person to the child.

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



565 such forms of sexual exploitation of children under circumstances
566 which indicate that the child's health or welfare is harmed or
567 threatened.

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

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

577 (q) "Custody" means the physical possession of the
578 child by any person.

579 (r) "Legal custody" means the legal status created by a
580 court order which gives the legal custodian the responsibilities
581 of physical possession of the child and the duty to provide him
582 with food, shelter, education and reasonable medical care, all
583 subject to residual rights and responsibilities of the parent or
584 guardian of the person.

585 (s) "Detention" means the care of children in
586 physically restrictive facilities.

587 (t) "Shelter" means care of children in physically
588 nonrestrictive facilities.



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

591 (i) All youth court records as defined in Section
592 43-21-251;

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

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

597 (iv) All agency records as defined in Section
598 43-21-257; and

599 (v) All other documents maintained by any
600 representative of the state, county, municipality or other public
601 agency insofar as they relate to the apprehension, custody,
602 adjudication or disposition of a child who is the subject of a
603 youth court cause.

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

611 (w) The singular includes the plural, the plural the
612 singular and the masculine the feminine when consistent with the
613 intent of this chapter.



614 (x) "Out-of-home" setting means the temporary
615 supervision or care of children by the staff of licensed day care
616 centers, the staff of public, private and state schools, the staff
617 of juvenile detention facilities, the staff of unlicensed
618 residential care facilities and group homes and the staff of, or
619 individuals representing, churches, civic or social organizations.

620 (y) "Durable legal custody" means the legal status
621 created by a court order which gives the durable legal custodian
622 the responsibilities of physical possession of the child and the
623 duty to provide him with care, nurture, welfare, food, shelter,
624 education and reasonable medical care. All these duties as
625 enumerated are subject to the residual rights and responsibilities
626 of the natural parent(s) or guardian(s) of the child or children.

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

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

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



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

640 (cc) "Screening" means a process, with or without the
641 administration of a formal instrument, that is designed to
642 identify a child who is at increased risk of having mental health,
643 substance abuse or co-occurring mental health and substance abuse
644 disorders that warrant immediate attention, intervention or more
645 comprehensive assessment.

646 (dd) "Durable legal relative guardianship" means the
647 legal status created by a youth court order that conveys the
648 physical and legal custody of a child or children by durable legal
649 guardianship to a relative or fictive kin who is licensed as a
650 foster or resource parent.

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

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

657 (gg) "Reasonable efforts" means the exercise of
658 reasonable care and due diligence by the Department of Human
659 Services, the Department of Child Protection Services, or any
660 other appropriate entity or person to use * * * services * * *
661 appropriate to the child's background, accessible, and available
662 to meet the individualized needs of the child and child's family



663 to prevent removal and reunify the family as soon as safely
664 possible consistent with the best interests of the child.
665 Reasonable efforts must be made in collaboration with the family
666 and must address the individualized needs of the family that
667 brought the child to the attention of the Department of Child
668 Protection Services and must not consist of required services that
669 are not related to the family's needs.

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

674 **SECTION 6.** Section 43-21-151, Mississippi Code of 1972, is
675 amended as follows:

676 43-21-151. (1) The youth court shall have exclusive
677 original jurisdiction in all proceedings concerning a delinquent
678 child, a child in need of supervision, a neglected child, an
679 abused child or a dependent child except in the following
680 circumstances:

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

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



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

690 (c) When a charge of abuse or neglect of a child first
691 arises in the course of a custody action between the parents of
692 the child already pending in the chancery court and no notice of
693 such abuse was provided prior to such chancery proceedings, the
694 chancery court may proceed with the investigation, hearing and
695 determination of such abuse or neglect charge as a part of its
696 hearing and determination of the custody issue as between the
697 parents, notwithstanding the other provisions of the Youth Court
698 Law. The proceedings in chancery court on the abuse or neglect
699 charge shall be confidential in the same manner as provided in
700 youth court proceedings.

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

704 (2) Jurisdiction of the child in the cause shall attach at
705 the time of the offense, or at the time of the allegation of
706 abuse, neglect or exploitation, and shall continue thereafter for
707 that offense or the allegations of abuse, neglect or exploitation
708 until the child's twentieth birthday, unless sooner terminated by
709 order of the youth court. The youth court shall not have
710 jurisdiction over offenses committed by a child on or after his
711 eighteenth birthday, nor have jurisdiction of abuse, neglect, or



712 exploitation committed against a child after their eighteenth
713 birthday.

714 (3) No child who has not reached his thirteenth birthday
715 shall be held criminally responsible or criminally prosecuted for
716 a misdemeanor or felony; however, the parent, guardian or
717 custodian of such child may be civilly liable for any criminal
718 acts of such child. No child under the jurisdiction of the youth
719 court shall be held criminally responsible or criminally
720 prosecuted by any court for any act designated as a delinquent
721 act, unless jurisdiction is transferred to another court under
722 Section 43-21-157.

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

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

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

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



735 93-15- . Compelling and extraordinary reasons why
736 termination of parental rights would not be in the child's best
737 interests may include, but are not limited to:

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

742 (b) Guardianship is available;

743 (c) When the natural parent(s) are incarcerated but
744 subject to be released within a reasonable time and could be given
745 an opportunity to work a service plan toward possible
746 reunification;

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

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

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

754 (g) The child is placed in a residential treatment
755 facility and adoption is unlikely or undesirable or the child is
756 not in an adoptive placement or it is likely the child will age
757 out of the Department of Child Protection Services' custody rather
758 than be adopted;

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



760 (i) The Mississippi Department of Child Protection
761 Services has not provided services within the timeframes indicated
762 in the case plan and there is evidence that the family may achieve
763 reunification within six (6) months or there is a finding that
764 reasonable efforts were not made.

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

767 43-21-613. (1) If the youth court finds, after a hearing
768 which complies with the sections governing adjudicatory hearings,
769 that the terms of a delinquency or child in need of supervision
770 disposition order, probation or parole have been violated, the
771 youth court may, in its discretion, revoke the original
772 disposition and make any disposition which it could have
773 originally ordered. The hearing shall be initiated by the filing
774 of a petition that complies with the sections governing petitions
775 in this chapter and that includes a statement of the youth court's
776 original disposition order, probation or parole, the alleged
777 violation of that order, probation or parole, and the facts which
778 show the violation of that order, probation or parole. Summons
779 shall be served in the same manner as summons for an adjudicatory
780 hearing.

781 (2) On motion of a child or a child's parent, guardian or
782 custodian, the youth court may, in its discretion, conduct an
783 informal hearing to review the disposition order. If the youth
784 court finds a material change of circumstances relating to the



785 disposition of the child, the youth court may modify the
786 disposition order to any appropriate disposition of equal or
787 greater precedence which the youth court could have originally
788 ordered.

789 (3) (a) All disposition orders for supervision, probation
790 or placement of a child with an individual or an agency shall be
791 reviewed by the youth court judge or referee at least annually to
792 determine if continued placement, probation or supervision is in
793 the best interest of the child or the public. For children who
794 have been adjudicated abused or neglected, except for those
795 children for which a different timeframe is provided under Section
796 43-21-603(7), the youth court shall conduct a permanency hearing
797 within * * * one hundred twenty (120) days or every sixty (60)
798 days for children under three (3) years of age after the earlier
799 of:

800 (i) An adjudication that the child has been abused
801 or neglected; or

802 (ii) The date of the child's removal from the
803 allegedly abusive or neglectful custodian/parent. Notice of such
804 hearing shall be given in accordance with the provisions of
805 Section 43-21-505(5). In conducting the hearing, the judge or
806 referee shall require a written report and may require information
807 or statements from the child's youth court counselor, parent,
808 guardian or custodian, which includes, but is not limited to, an
809 evaluation of the child's progress and recommendations for further



810 supervision or treatment. The judge or referee shall, at the
811 permanency hearing determine the future status of the child,
812 including, but not limited to, whether the child should be
813 returned to the parent(s) or placed with suitable relatives,
814 placed for adoption, placed for the purpose of establishing
815 durable legal custody or should, because of the child's special
816 needs or circumstances, be continued in foster care on a permanent
817 or long-term basis. If the child is in an out-of-state placement,
818 the hearing shall determine whether the out-of-state placement
819 continues to be appropriate and in the best interest of the child.
820 At the permanency hearing the judge or referee shall determine,
821 and the youth court order shall recite that reasonable efforts
822 were made by the Department of Child Protection Services to
823 finalize the child's permanency plan that was in effect on the
824 date of the permanency hearing. The judge or referee may find
825 that reasonable efforts to maintain the child within his home
826 shall not be required in accordance with Section 43-21-603(7)(c),
827 and that the youth court shall continue to conduct permanency
828 hearings for a child who has been adjudicated abused or neglected,
829 at least annually thereafter, for as long as the child remains in
830 the custody of the Mississippi Department of Child Protection
831 Services.

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



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

837 (ii) The Department of Child Protection Services
838 has documented compelling and extraordinary reasons why
839 termination of parental rights would not be in the best interests
840 of the child.

841 (c) The provisions of this subsection shall also apply
842 to review of cases involving a dependent child; however, such
843 reviews shall take place not less frequently than once each one
844 hundred eighty (180) days, or upon the request of the child's
845 attorney, a parent's attorney, or a parent as deemed appropriate
846 by the youth court in protecting the best interests of the child.
847 A dependent child shall be ordered by the youth court judge or
848 referee to be returned to the custody and home of the child's
849 parent, guardian or custodian unless the judge or referee, upon
850 such review, makes a written finding that the return of the child
851 to the home would be contrary to the child's best interests.

852 (d) Reviews are not to be conducted unless explicitly
853 ordered by the youth court concerning those cases in which the
854 court has granted durable legal custody. In such cases, the
855 Department of Child Protection Services shall be released from any
856 oversight or monitoring responsibilities, and relieved of physical
857 and legal custody and supervision of the child.

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



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

862 93-15-121. Any of the following, if established by clear and
863 convincing evidence, may be grounds for termination of the
864 parent's parental rights if reunification between the parent and
865 child is not desirable toward obtaining a satisfactory permanency
866 outcome:

867 (a) The parent has been medically diagnosed by a
868 qualified mental health professional with a severe mental illness
869 or deficiency that is unlikely to change in a reasonable period of
870 time and which, based upon expert testimony or an established
871 pattern of behavior, * * * prevents the parent, despite reasonable
872 accommodations, from providing minimally acceptable care for the
873 child;

874 (b) The parent has been medically diagnosed by a
875 qualified health professional with an extreme physical
876 incapacitation that is unlikely to change in a reasonable period
877 of time and which, based upon expert testimony or an established
878 pattern of behavior, prevents the parent, despite reasonable
879 accommodations, from providing minimally acceptable care for the
880 child;

881 (c) The parent is suffering from habitual alcoholism or
882 other drug addiction and has failed to successfully complete
883 alcohol or drug treatment;



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

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

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

894 (g) The parent has committed an abusive act for which
895 reasonable efforts to maintain the children in the home would not
896 be required under Section 43-21-603, or a series of physically,
897 mentally, or emotionally abusive incidents, against the child or
898 another child, whether related by consanguinity or affinity or
899 not, making future contacts between the parent and child
900 undesirable; or

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

- 903 1. Rape of a child under Section 97-3-65;
- 904 2. Sexual battery of a child under Section
905 97-3-95(c);
- 906 3. Touching a child for lustful purposes
907 under Section 97-5-23;



908 4. Exploitation of a child under Sections
909 97-5-31 through 97-5-37;

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

912 6. Carnal knowledge of a step or adopted
913 child or a child of a cohabitating partner under Section 97-5-41;
914 or

915 7. Human trafficking of a child under Section
916 97-3-54.1; or

917 (ii) The parent has been convicted of:

918 1. Murder or voluntary manslaughter of
919 another child of the parent;

920 2. Aiding, abetting, attempting, conspiring
921 or soliciting to commit murder or voluntary manslaughter of the
922 child or another child of the parent; or

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

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

927 97-5-39. (1) (a) Except as otherwise provided in this
928 section, any parent, guardian or other person who intentionally,
929 knowingly or recklessly commits any act or omits the performance
930 of any duty, which act or omission contributes to or tends to
931 contribute to the neglect or delinquency of any child or which act
932 or omission results in the abuse of any child, as defined in



933 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
934 any child in escaping or absenting himself from the guardianship
935 or custody of any person, agency or institution, or knowingly
936 harbors or conceals, or aids in harboring or concealing, any child
937 who has absented himself without permission from the guardianship
938 or custody of any person, agency or institution to which the child
939 shall have been committed by the youth court shall be guilty of a
940 misdemeanor, and upon conviction shall be punished by a fine not
941 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
942 to exceed one (1) year in jail, or by both such fine and
943 imprisonment.

944 (b) For the purpose of this section, a child is a
945 person who has not reached his eighteenth birthday. A child who
946 has not reached his eighteenth birthday and is on active duty for
947 a branch of the armed services, or who is married, is not
948 considered a child for the purposes of this statute.

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

953 (d) If the * * * parent has failed to provide the child
954 with food, clothing, or shelter necessary to sustain the life or
955 health of the child, excluding failure caused by financial
956 inability unless relief services have been offered and refused and
957 the child is in imminent risk of harm, or the parent is unwilling



958 to provide reasonably necessary medical care, though that medical
959 care does not include recommended or optional vaccinations against
960 childhood or any other disease, the person may be sentenced to
961 imprisonment in custody of the Department of Corrections for not
962 more than five (5) years or to payment of a fine of not more than
963 Five Thousand Dollars (\$5,000.00), or both.

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

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

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

974 (i) Burn any child;

975 (ii) * * * Torture any child;

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

978 (iv) Poison a child;

979 (v) Starve a child of nourishments needed to
980 sustain life or growth;

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



982 (b) If some bodily harm to any child actually occurs,
983 and if the person shall intentionally, knowingly or recklessly:
984 (i) Throw, kick, bite, or cut any child;
985 (ii) Strike a child under the age of fourteen (14)
986 about the face or head with a closed fist;
987 (iii) Strike a child under the age of five (5) in
988 the face or head;
989 (iv) Kick, bite, cut or strike a child's genitals;
990 circumcision of a male child is not a violation under this
991 subparagraph (iv);
992 (c) If serious bodily harm to any child actually
993 occurs, and if the person shall intentionally, knowingly or
994 recklessly:
995 (i) Strike any child on the face or head;
996 (ii) Disfigure or scar any child;
997 (iii) Whip, strike or otherwise abuse any child;
998 (d) Any person, upon conviction under paragraph (a) or
999 (c) of this subsection, shall be sentenced by the court to
1000 imprisonment in the custody of the Department of Corrections for a
1001 term of not less than five (5) years and up to life, as determined
1002 by the court. Any person, upon conviction under paragraph (b) of
1003 this subsection shall be sentenced by the court to imprisonment in
1004 the custody of the Department of Corrections for a term of not
1005 less than two (2) years nor more than ten (10) years, as
1006 determined by the court. For any second or subsequent conviction



1007 under this subsection (2), the person shall be sentenced to
1008 imprisonment for life.

1009 (e) For the purposes of this subsection (2), "bodily
1010 harm" means any bodily injury to a child and includes, but is not
1011 limited to, bruising, bleeding, lacerations, soft tissue swelling,
1012 and external or internal swelling of any body organ.

1013 (f) For the purposes of this subsection (2), "serious
1014 bodily harm" means any serious bodily injury to a child and
1015 includes, but is not limited to, the fracture of a bone, permanent
1016 disfigurement, permanent scarring, or any internal bleeding or
1017 internal trauma to any organ, any brain damage, any injury to the
1018 eye or ear of a child or other vital organ, and impairment of any
1019 bodily function.

1020 (g) For purposes of this subsection (2), "torture"
1021 means any act, omission, or intentional neglect committed by an
1022 individual upon a child within his custody or physical control,
1023 whereby unnecessary or unjustifiable physical or mental pain or
1024 suffering is caused or permitted, regardless of whether serious
1025 physical injury results. Child torture involves treatment that is
1026 intentionally cruel, inhumane, and degrading, including, but not
1027 limited to: intentionally starving a child; forcing a child to
1028 sit in urine or feces; binding or restraining a child; repeatedly
1029 physically injuring a child; exposing the child to extreme
1030 temperatures without adequate clothing or shelter; locking a child



1031 in closets or other small spaces; and forcing a child into stress
1032 positions or exercise resulting in prolonged suffering.

1033 (* * *h) Nothing contained in paragraph (c) of this
1034 subsection shall preclude a parent or guardian from disciplining a
1035 child of that parent or guardian, or shall preclude a person in
1036 loco parentis to a child from disciplining that child, if done in
1037 a reasonable manner, and reasonable corporal punishment or
1038 reasonable discipline as to that parent or guardian's child or
1039 child to whom a person stands in loco parentis shall be a defense
1040 to any violation charged under paragraph (c) of this subsection.

1041 (* * *i) Reasonable discipline and reasonable corporal
1042 punishment shall not be a defense to acts described in paragraphs
1043 (a) and (b) of this subsection or if a child suffers serious
1044 bodily harm as a result of any act prohibited under paragraph (c)
1045 of this subsection.

1046 (3) Nothing contained in this section shall prevent
1047 proceedings against the parent, guardian or other person under any
1048 statute of this state or any municipal ordinance defining any act
1049 as a crime or misdemeanor. Nothing in the provisions of this
1050 section shall preclude any person from having a right to trial by
1051 jury when charged with having violated the provisions of this
1052 section.

1053 (4) (a) A parent, legal guardian or caretaker who endangers
1054 a child's person or health by knowingly causing or permitting the
1055 child to be present where any person is selling, manufacturing or



1056 possessing immediate precursors or chemical substances with intent
1057 to manufacture, sell or possess a controlled substance as
1058 prohibited under Section 41-29-139 or 41-29-313, is guilty of
1059 child endangerment and may be sentenced to imprisonment for not
1060 more than ten (10) years or to payment of a fine of not more than
1061 Ten Thousand Dollars (\$10,000.00), or both.

1062 (b) If the endangerment results in substantial harm to
1063 the child's physical, mental or emotional health, the person may
1064 be sentenced to imprisonment for not more than twenty (20) years
1065 or to payment of a fine of not more than Twenty Thousand Dollars
1066 (\$20,000.00), or both.

1067 (5) Nothing contained in this section shall prevent
1068 proceedings against the parent, guardian or other person under any
1069 statute of this state or any municipal ordinance defining any act
1070 as a crime or misdemeanor. Nothing in the provisions of this
1071 section shall preclude any person from having a right to trial by
1072 jury when charged with having violated the provisions of this
1073 section.

1074 (6) After consultation with the Department of Child
1075 Protection Services, a regional mental health center or an
1076 appropriate professional person, a judge may suspend imposition or
1077 execution of a sentence provided in subsections (1) and (2) of
1078 this section and in lieu thereof require treatment over a
1079 specified period of time at any approved public or private



1080 treatment facility. A person may be eligible for treatment in
1081 lieu of criminal penalties no more than one (1) time.

1082 (7) In any proceeding resulting from a report made pursuant
1083 to Section 43-21-353 of the Youth Court Law, the testimony of the
1084 physician making the report regarding the child's injuries or
1085 condition or cause thereof shall not be excluded on the ground
1086 that the physician's testimony violates the physician-patient
1087 privilege or similar privilege or rule against disclosure. The
1088 physician's report shall not be considered as evidence unless
1089 introduced as an exhibit to his testimony.

1090 (8) Any criminal prosecution arising from a violation of
1091 this section shall be tried in the circuit, county, justice or
1092 municipal court having jurisdiction; provided, however, that
1093 nothing herein shall abridge or dilute the contempt powers of the
1094 youth court.

1095 **SECTION 11.** Section 43-21-651, Mississippi Code of 1972, is
1096 amended as follows:

1097 43-21-651. (1) (a) The court to which appeals may be taken
1098 from final orders or decrees of the youth court shall be the
1099 Supreme Court of Mississippi pursuant to the Rules of Appellate
1100 Procedure. Final Orders in youth court include orders that grant
1101 durable legal custody or durable legal relative guardianship,
1102 transfer jurisdiction over the minor child to another court, such
1103 as for an adoption, or otherwise terminate the jurisdiction of the
1104 youth court over the minor child. All factual findings, legal



1105 determinations, and adjudication of issues by the youth court
1106 prior to the time the final order is entered are preserved for
1107 appellate review and any common law to the contrary is expressly
1108 abrogated. Any matters adjudicated by the youth court through
1109 interim orders such as adjudication/disposition orders, or
1110 permanency review orders, may be only appealed through the
1111 interlocutory appeal process provided by the Rules of Appellate
1112 Procedure.

1113 (b) The rule of construction that statutes in
1114 derogation of the common law are to be strictly construed shall
1115 have no application to this subsection.

1116 (* * *2) In any case wherein an appeal is desired, written
1117 notice of intention to appeal shall be filed with the youth court
1118 clerk within the time, and costs in the youth court and the filing
1119 fee in the Supreme Court shall be paid, as is otherwise required
1120 for appeals to the Supreme Court. If the appellant shall make
1121 affidavit that he is unable to pay such costs and filing fee, he
1122 shall have an appeal without prepayment of court costs and filing
1123 fee. Only the initials of the child shall appear on the record on
1124 appeal.

1125 (* * *3) The pendency of an appeal shall not suspend the
1126 order or decree of the youth court regarding a child, nor shall it
1127 discharge the child from the custody of that court or of the
1128 person, institution or agency to whose care such child shall have
1129 been committed, unless the youth court or Supreme Court shall so



1130 order. If appellant desires to appeal with supersedeas, the
1131 matter first shall be presented to the youth court. If refused,
1132 the youth court shall forthwith issue a written order stating the
1133 reasons for the denial, which order shall be subject to review by
1134 the Supreme Court. If the Supreme Court does not dismiss the
1135 proceedings and discharge the child, it shall affirm or modify or
1136 reverse the order of the youth court and remand the child to the
1137 jurisdiction of the youth court for placement and supervision in
1138 accordance with its order, and thereafter the child shall be and
1139 remain under the jurisdiction of the youth court in the same
1140 manner as if the youth court had made the order without an appeal
1141 having been taken.

1142 (* * *4) Appeals from the youth court shall be preference
1143 cases in the Supreme Court.

1144 **SECTION 12.** Section 43-21-351, Mississippi Code of 1972, is
1145 amended as follows:

1146 43-21-351. (1) Any person or agency having knowledge that a
1147 child residing or being within the county is within the
1148 jurisdiction of the youth court may make a written report to the
1149 intake unit alleging facts sufficient to establish the
1150 jurisdiction of the youth court. The report shall bear a
1151 permanent number that will be assigned by the court in accordance
1152 with the standards established by the Administrative Office of
1153 Courts pursuant to Section 9-21-9(d), and shall be preserved until
1154 destroyed on order of the court.



1155 (2) There shall be in each youth court of the state an
1156 intake officer who shall be responsible for the accurate and
1157 timely entering of all intake and case information into the
1158 Mississippi Youth Court Information Delivery System (MYCIDS) for
1159 the Department of Human Services - Division of Youth Services,
1160 truancy matters, and the Department of Child Protection Services.
1161 It shall be the responsibility of the youth court judge or referee
1162 of each county to ensure that the intake officer is carrying out
1163 the responsibility of this section.

1164 (3) Each intake officer shall receive, at a minimum, six (6)
1165 hours of annual training on MYCIDS provided by the Mississippi
1166 Judicial College. The required training under this subsection
1167 shall be in addition to technical training provided by the
1168 Mississippi Supreme Court MYCIDS Information Technology
1169 Department.

1170 (4) The Mississippi Judicial College, in conjunction with
1171 the Administrative Office of Courts, shall develop training
1172 materials on MYCIDS:

1173 (a) To ensure the accurate and timely entrance of all
1174 intake and case information throughout the state by intake
1175 officers;

1176 (b) To ensure that youth court judges are equipped to
1177 oversee the functions of each intake officer.

1178 **SECTION 13.** Section 43-21-801, Mississippi Code of 1972, is
1179 amended as follows:



1180 43-21-801. (1) There is established the Youth Court Support
1181 Program. The purpose of the program shall be to ensure that all
1182 youth courts have sufficient support funds to carry on the
1183 business of the youth court. The Administrative Office of Courts
1184 shall establish a formula consistent with this section for
1185 providing state support payable from the Youth Court Support Fund
1186 for the support of the youth courts.

1187 (a) (i) Each regular youth court referee is eligible
1188 for youth court support funds so long as the senior chancellor
1189 does not elect to employ a youth court administrator as set forth
1190 in paragraph (b); a municipal youth court judge is also eligible.
1191 The Administrative Office of Courts shall direct any funds to the
1192 appropriate county or municipality. The funds shall be utilized
1193 to compensate an intake officer who shall be responsible for
1194 ensuring that all intake and case information for the Department
1195 of Human Services - Division of Youth Services, truancy matters,
1196 and the Department of Child Protection Services is entered into
1197 the Mississippi Youth Court Information Delivery System (MYCIDS)
1198 in an accurate and timely manner. If the court already has an
1199 intake officer responsible for entering all cases of the
1200 Department of Human Services - Division of Youth Services, truancy
1201 matters, and the Department of Child Protection Services into
1202 MYCIDS, the regular youth court referee or municipal court judge
1203 may certify to the Administrative Office of Courts that such a
1204 person is already on staff. In such a case, each regular youth



1205 court referee or municipal youth court judge shall have the sole
1206 individual discretion to appropriate those funds as expense monies
1207 to assist in hiring secretarial staff and acquiring materials and
1208 equipment incidental to carrying on the business of the court
1209 within the private practice of law of the referee or judge, or may
1210 direct the use of those funds through the county or municipal
1211 budget for court support supplies or services. The regular youth
1212 court referee and municipal youth court judge shall be accountable
1213 for assuring through private, county or municipal employees the
1214 proper preparation and filing of all necessary tracking and other
1215 documentation attendant to the administration of the youth court.

1216 (ii) Title to all tangible property, excepting
1217 stamps, stationery and minor expendable office supplies, procured
1218 with funds authorized by this section, shall be and forever remain
1219 in the county or municipality to be used by the judge or referee
1220 during the term of his office and thereafter by his successors.

1221 (b) (i) When permitted by the Administrative Office of
1222 Courts and as funds are available, the senior chancellor for
1223 Chancery Districts One, Two, Three, Four, Six, Seven, Nine, Ten,
1224 Thirteen, Fourteen, Fifteen and Eighteen may appoint a youth court
1225 administrator for the district whose responsibility will be to
1226 perform all reporting, tracking and other duties of a court
1227 administrator for all youth courts in the district that are under
1228 the chancery court system. Any chancery district listed in this
1229 paragraph in which a chancellor appoints a referee or special



1230 master to hear any youth court matter is ineligible for funding
1231 under this paragraph (b). The Administrative Office of Courts may
1232 allocate to an eligible chancery district a sum not to exceed
1233 Thirty Thousand Dollars (\$30,000.00) per year for the salary,
1234 fringe benefits and equipment of the youth court administrator,
1235 and an additional sum not to exceed One Thousand Nine Hundred
1236 Dollars (\$1,900.00) for the administrator's travel expenses.

1237 (ii) The appointment of a youth court
1238 administrator shall be evidenced by the entry of an order on the
1239 minutes of the court. The person appointed shall serve at the
1240 will and pleasure of the senior chancellor but shall be an
1241 employee of the Administrative Office of Courts.

1242 (iii) The Administrative Office of Courts must
1243 approve the position, job description and salary before the
1244 position can be filled. The Administrative Office of Courts shall
1245 not approve any plan that does not first require the expenditure
1246 of the funds from the Youth Court Support Fund before expenditure
1247 of county funds is authorized for that purpose.

1248 (iv) Title to any tangible property procured with
1249 funds authorized under this paragraph shall be and forever remain
1250 in the State of Mississippi.

1251 (c) (i) Each county court is eligible for youth court
1252 support funds. The funds shall be utilized to provide
1253 compensation to an intake officer who shall be responsible for
1254 ensuring that all intake and case information for the Department



1255 of Human Services - Division of Youth Services, truancy matters,
1256 and the Department of Child Protection Services is entered into
1257 the Mississippi Youth Court Information Delivery System (MYCIDS)
1258 in an accurate and timely manner. If the county court already has
1259 an intake officer or other staff person responsible for entering
1260 all cases of the Department of Human Services - Division of Youth
1261 Services, truancy matters and the Department of Child Protection
1262 Services into MYCIDS, the senior county court judge may certify
1263 that such a person is already on staff. In such a case, the
1264 senior county court judge shall have discretion to direct the
1265 expenditure of those funds in hiring other support staff to carry
1266 on the business of the court.

1267 (ii) For the purposes of this paragraph, "support
1268 staff" means court administrators, law clerks, legal research
1269 assistants, secretaries, resource administrators or case managers
1270 appointed by a youth court judge, or any combination thereof, but
1271 shall not mean school attendance officers.

1272 (iii) The appointment of support staff shall be
1273 evidenced by the entry of an order on the minutes of the court.
1274 The support staff so appointed shall serve at the will and
1275 pleasure of the senior county court judge but shall be an employee
1276 of the county.

1277 (iv) The Administrative Office of Courts must
1278 approve the positions, job descriptions and salaries before the
1279 positions may be filled. The Administrative Office of Courts



1280 shall not approve any plan that does not first require the
1281 expenditure of funds from the Youth Court Support Fund before
1282 expenditure of county funds is authorized for that purpose.

1283 (v) The Administrative Office of Courts may
1284 approve expenditure from the fund for additional equipment for
1285 support staff appointed pursuant to this paragraph if the
1286 additional expenditure falls within the formula. Title to any
1287 tangible property procured with funds authorized under this
1288 paragraph shall be and forever remain in the county to be used by
1289 the youth court and support staff.

1290 (2) (a) (i) The formula developed by the Administrative
1291 Office of Courts for providing youth court support funds shall be
1292 devised so as to distribute appropriated funds proportional to
1293 caseload and other appropriate factors as set forth in regulations
1294 promulgated by the Administrative Office of Courts. The formula
1295 will determine a reasonable maximum amount per judge or referee
1296 per annum that will not be exceeded in allocating funds under this
1297 section.

1298 (ii) The formula shall be reviewed by the
1299 Administrative Office of Courts every two (2) years to ensure that
1300 the youth court support funds provided herein are proportional to
1301 each youth court's caseload and other specified factors.

1302 (iii) The Administrative Office of Courts shall
1303 have wide latitude in the first two-year cycle to implement a
1304 formula designed to maximize caseload data collection.



1305 (b) Application to receive funds under this section
1306 shall be submitted in accordance with procedures established by
1307 the Administrative Office of Courts.

1308 (c) Approval of the use of any of the youth court
1309 support funds distributed under this section shall be made by the
1310 Administrative Office of Courts in accordance with procedures
1311 established by the Administrative Office of Courts.

1312 (3) (a) There is created in the State Treasury a special
1313 fund to be designated as the "Youth Court Support Fund," which
1314 shall consist of funds appropriated or otherwise made available by
1315 the Legislature in any manner and funds from any other source
1316 designated for deposit into such fund. Unexpended amounts
1317 remaining in the fund at the end of a fiscal year shall not lapse
1318 into the State General Fund, and any investment earnings or
1319 interest earned on amounts in the fund shall be deposited to the
1320 credit of the fund. Monies in the fund shall be distributed to
1321 the youth courts by the Administrative Office of Courts for the
1322 purposes described in this section.

1323 (b) (i) During the regular legislative session held in
1324 calendar year 2007, the Legislature may appropriate an amount not
1325 to exceed Two Million Five Hundred Thousand Dollars
1326 (\$2,500,000.00) to the Youth Court Support Fund.

1327 (ii) During each regular legislative session
1328 subsequent to the 2007 Regular Session, the Legislature shall



1329 appropriate Two Million Five Hundred Thousand Dollars
1330 (\$2,500,000.00) to the Youth Court Support Fund.

1331 (c) No youth court judge or youth court referee shall
1332 be eligible to receive funding from the Youth Court Support Fund
1333 who has not received annual continuing education in the field of
1334 juvenile justice in an amount to conform with the requirements of
1335 the Rules and Regulations for Mandatory Continuing Judicial
1336 Education promulgated by the Supreme Court or received at least
1337 one (1) hour of annual continuing education concerning oversight
1338 of youth court intake officers and MYCIDS. The Administrative
1339 Office of Courts shall maintain records of all referees and youth
1340 court judges regarding such training and shall not disburse funds
1341 to any county or municipality for the budget of a youth court
1342 judge or referee who is not in compliance with the judicial
1343 training requirements.

1344 (4) Any recipient of funds from the Youth Court Support Fund
1345 shall not be eligible for continuing disbursement of funds if the
1346 recipient is not in compliance with the terms, conditions and
1347 reporting requirements set forth in the procedures promulgated by
1348 the Administrative Office of Courts.

1349 **SECTION 14.** Section 43-21-301, Mississippi Code of 1972, is
1350 amended as follows:

1351 43-21-301. (1) No court other than the youth court shall
1352 issue an arrest warrant or custody order for a child in a matter



1353 in which the youth court has exclusive original jurisdiction but
1354 shall refer the matter to the youth court.

1355 (2) Except as otherwise provided, no child in a matter in
1356 which the youth court has exclusive original jurisdiction shall be
1357 taken into custody by a law enforcement officer, the Department of
1358 Human Services, the Department of Child Protection Services, or
1359 any other person unless the judge or his designee has issued a
1360 custody order to take the child into custody.

1361 (3) The judge or his designee may require a law enforcement
1362 officer, the Department of Human Services, the Department of Child
1363 Protection Services, or any suitable person to take a child into
1364 custody for a period not longer than forty-eight (48) hours,
1365 excluding Saturdays, Sundays, and statutory state holidays.

1366 (a) Custody orders under this subsection may be issued
1367 if it appears that there is probable cause to believe that:

1368 (i) The child is within the jurisdiction of the
1369 court;

1370 (ii) Custody is necessary because of any of the
1371 following reasons: the child is in danger of a significant risk
1372 of harm, any person would be in danger of a significant risk of
1373 harm by the child, to ensure the child's attendance in court at
1374 such time as required, or a parent, guardian or custodian is not
1375 available to provide for the care and supervision of the child;
1376 and



1377 (iii) There is no reasonable alternative to
1378 custody.

1379 A finding of probable cause under this subsection (3) (a)
1380 shall not be based solely upon a positive drug test of a newborn
1381 or parent for marijuana or solely upon the status of a parent as a
1382 cardholder under the Mississippi Medical Cannabis Act; however, a
1383 finding of probable cause may be based upon an evidence-based
1384 finding of harm to the child or a parent's inability to provide
1385 for the care and supervision of the child due to the parent's use
1386 of marijuana. Probable cause for unlawful use of any controlled
1387 substance, except as otherwise provided in this subsection (3) (a)
1388 for marijuana, may be based: 1. upon a parent's positive drug
1389 test for unlawful use of a controlled substance only if the child
1390 is in danger of a significant risk of harm or the parent is unable
1391 to provide proper care or supervision of the child because of the
1392 unlawful use and there is no reasonable alternative to custody;
1393 and 2. upon a newborn's positive drug screen for a controlled
1394 substance that was used unlawfully only if the child is in danger
1395 of a significant risk of harm or the parent is unable to provide
1396 proper care or supervision of the child because of the unlawful
1397 use and there is no reasonable alternative to custody.

1398 A child shall not be considered "neglected" solely because
1399 the child's parent, guardian or custodian has failed to provide
1400 the child with food, clothing, or shelter necessary to sustain the
1401 life or health of the child when the failure is caused primarily



1402 by financial inability, unless relief services had been offered
1403 and refused and the child is in imminent risk of harm.

1404 (b) Custody orders under this subsection shall be
1405 written. In emergency cases, a judge or his designee may issue an
1406 oral custody order, but the order shall be reduced to writing
1407 within forty-eight (48) hours of its issuance.

1408 (c) Each youth court judge shall develop and make
1409 available to law enforcement a list of designees who are available
1410 after hours, on weekends and on holidays.

1411 (4) The judge or his designee may order, orally or in
1412 writing, the immediate release of any child in the custody of any
1413 person or agency. Except as otherwise provided in subsection (3)
1414 of this section, custody orders as provided by this chapter and
1415 authorizations of temporary custody may be written or oral, but,
1416 if oral, reduced to writing within forty-eight (48) hours,
1417 excluding Saturdays, Sundays and statutory state holidays. The
1418 written order shall:

1419 (a) Specify the name and address of the child, or, if
1420 unknown, designate him or her by any name or description by which
1421 he or she can be identified with reasonable certainty;

1422 (b) Specify the age of the child, or, if unknown, that
1423 he or she is believed to be of an age subject to the jurisdiction
1424 of the youth court;

1425 (c) Except in cases where the child is alleged to be a
1426 delinquent child or a child in need of supervision, state that the



1427 effect of the continuation of the child's residing within his or
1428 her own home would be contrary to the welfare of the child, that
1429 the placement of the child in foster care is in the best interests
1430 of the child, and unless the reasonable efforts requirement is
1431 bypassed under Section 43-21-603(7)(c), also state that (i)
1432 reasonable efforts have been made to maintain the child within his
1433 or her own home, but that the circumstances warrant his removal
1434 and there is no reasonable alternative to custody; or (ii) the
1435 circumstances are of such an emergency nature that no reasonable
1436 efforts have been made to maintain the child within his own home,
1437 and that there is no reasonable alternative to custody. If the
1438 court makes a finding in accordance with (ii) of this paragraph,
1439 the court shall order that reasonable efforts be made toward the
1440 reunification of the child with his or her family;

1441 (d) State that the child shall be brought immediately
1442 before the youth court or be taken to a place designated by the
1443 order to be held pending review of the order;

1444 (e) State the date issued and the youth court by which
1445 the order is issued; and

1446 (f) Be signed by the judge or his designee with the
1447 title of his office.

1448 (5) The taking of a child into custody shall not be
1449 considered an arrest except for evidentiary purposes.

1450 (6) (a) No child who has been accused or adjudicated of any
1451 offense that would not be a crime if committed by an adult shall



1452 be placed in an adult jail or lockup. An accused status offender
1453 shall not be held in secure detention longer than twenty-four (24)
1454 hours prior to and twenty-four (24) hours after an initial court
1455 appearance, excluding Saturdays, Sundays and statutory state
1456 holidays, except under the following circumstances: a status
1457 offender may be held in secure detention for violating a valid
1458 court order pursuant to the criteria as established by the federal
1459 Juvenile Justice and Delinquency Prevention Act of 2002, and any
1460 subsequent amendments thereto, and out-of-state runaways may be
1461 detained pending return to their home state.

1462 (b) No accused or adjudicated juvenile offender, except
1463 for an accused or adjudicated juvenile offender in cases where
1464 jurisdiction is waived to the adult criminal court, shall be
1465 detained or placed into custody of any adult jail or lockup for a
1466 period in excess of six (6) hours.

1467 (c) If any county violates the provisions of paragraph
1468 (a) or (b) of this subsection, the state agency authorized to
1469 allocate federal funds received pursuant to the Juvenile Justice
1470 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
1471 scattered Sections of 5, 18, 42 USCS), shall withhold the county's
1472 share of such funds.

1473 (d) Any county that does not have a facility in which
1474 to detain its juvenile offenders in compliance with the provisions
1475 of paragraphs (a) and (b) of this subsection may enter into a
1476 contractual agreement to detain or place into custody the juvenile



1477 offenders of that county with any county or municipality that does
1478 have such a facility, or with the State of Mississippi, or with
1479 any private entity that maintains a juvenile correctional
1480 facility.

1481 (e) Notwithstanding the provisions of paragraphs (a),
1482 (b), (c) and (d) of this subsection, all counties shall be allowed
1483 a one-year grace period from March 27, 1993, to comply with the
1484 provisions of this subsection.

1485 **SECTION 15.** Section 43-21-303, Mississippi Code of 1972, is
1486 amended as follows:

1487 43-21-303. (1) No child in a matter in which the youth
1488 court has original exclusive jurisdiction shall be taken into
1489 custody by any person without a custody order except that:

1490 (a) A law enforcement officer may take a child in
1491 custody if:

1492 (i) Grounds exist for the arrest of an adult in
1493 identical circumstances; and

1494 (ii) Such law enforcement officer has probable
1495 cause to believe that custody is necessary as defined in Section
1496 43-21-301; and

1497 (iii) Such law enforcement officer can find no
1498 reasonable alternative to custody; or

1499 (b) A law enforcement officer or an agent of the
1500 Department of Child Protection Services or the Department of Human
1501 Services may take a child into immediate custody if:



1502 (i) There is probable cause to believe that the
1503 child is in immediate danger of personal harm; however, probable
1504 cause shall not be based solely upon a positive drug test of a
1505 newborn or parent for marijuana or solely upon the status of a
1506 parent as a cardholder under the Mississippi Medical Cannabis Act,
1507 but a finding of probable cause may be based upon an
1508 evidence-based finding of harm to the child or a parent's
1509 inability to provide for the care and supervision of the child due
1510 to the parent's use of marijuana. Probable cause for unlawful use
1511 of any controlled substance, except as otherwise provided in this
1512 subparagraph (i) for marijuana, may be based: 1. upon a parent's
1513 positive drug test for unlawful use of a controlled substance only
1514 if the child is in danger of a significant risk of harm or the
1515 parent is unable to provide proper care or supervision of the
1516 child because of the unlawful use and there is no reasonable
1517 alternative to custody; and 2. upon a newborn's positive drug
1518 screen for a controlled substance that was used unlawfully only if
1519 the child is in danger of a significant risk of harm or the parent
1520 is unable to provide proper care or supervision of the child
1521 because of the unlawful use and there is no reasonable alternative
1522 to custody.

1523 A child shall not be considered "neglected" solely because
1524 the child's parent, guardian or custodian has failed to provide
1525 the child with food, clothing, or shelter necessary to sustain the
1526 life or health of the child when the failure is caused primarily



1527 by financial inability, unless relief services had been offered
1528 and refused and the child is in imminent risk of harm; and

1529 (ii) There is probable cause to believe that
1530 immediate custody is necessary as set forth in Section
1531 43-21-301(3); and

1532 (iii) There is no reasonable alternative to
1533 custody; and

1534 (c) Any other person may take a child into custody if
1535 grounds exist for the arrest of an adult in identical
1536 circumstances. Such other person shall immediately surrender
1537 custody of the child to the proper law enforcement officer who
1538 shall thereupon continue custody only as provided in * * *
1539 paragraph (a) of this subsection.

1540 (2) When it is necessary to take a child into custody, the
1541 least restrictive custody should be selected.

1542 (3) Unless the child is immediately released, the person
1543 taking the child into custody shall immediately notify the judge
1544 or his designee. A person taking a child into custody shall also
1545 make continuing reasonable efforts to notify the child's parent,
1546 guardian or custodian and invite the parent, guardian or custodian
1547 to be present during any questioning.

1548 (4) A child taken into custody shall not be held in custody
1549 for a period longer than reasonably necessary, but not to exceed
1550 twenty-four (24) hours, and shall be released to his parent,



1551 guardian or custodian unless the judge or his designee authorizes
1552 temporary custody.

1553 **SECTION 16.** Section 93-17-3, Mississippi Code of 1972, is
1554 amended as follows:

1555 93-17-3. (1) Except as otherwise provided in this section,
1556 a court of this state has jurisdiction over a proceeding for the
1557 adoption or readoption of a minor commenced under this chapter if:

1558 (a) Immediately before commencement of the proceeding,
1559 the minor lived in this state with a parent, a guardian, a
1560 prospective adoptive parent or another person acting as parent,
1561 for at least six (6) consecutive months, excluding periods of
1562 temporary absence, or, in the case of a minor under six (6) months
1563 of age, lived in this state from soon after birth with any of
1564 those individuals and there is available in this state substantial
1565 evidence concerning the minor's present or future care;

1566 (b) Immediately before commencement of the proceeding,
1567 the prospective adoptive parent lived in this state for at least
1568 six (6) consecutive months, excluding periods of temporary
1569 absence, and there is available in this state substantial evidence
1570 concerning the minor's present or future care;

1571 (c) The agency that placed the minor for adoption is
1572 licensed in this state and it is in the best interest of the minor
1573 that a court of this state assume jurisdiction because:



1574 (i) The minor and the minor's parents, or the
1575 minor and the prospective adoptive parent, have a significant
1576 connection with this state; and

1577 (ii) There is available in this state substantial
1578 evidence concerning the minor's present or future care;

1579 (d) The minor and the prospective adoptive parent or
1580 parents are physically present in this state and the minor has
1581 been abandoned or it is necessary in an emergency to protect the
1582 minor because the minor has been subjected to or threatened with
1583 mistreatment or abuse or is otherwise neglected, and the
1584 prospective adoptive parent or parents, if not residing in
1585 Mississippi, have completed and provided the court with a
1586 satisfactory Interstate Compact for Placement of Children (ICPC)
1587 home study and accompanying forms, unless the court determines
1588 that the home study is not necessary in the case of an adoption by
1589 a stepparent or a relative or in the case of an adoption in a
1590 foster-to-adopt placement;

1591 (e) It appears that no other state would have
1592 jurisdiction under prerequisites substantially in accordance with
1593 paragraphs (a) through (d), or another state has declined to
1594 exercise jurisdiction on the ground that this state is the more
1595 appropriate forum to hear a petition for adoption of the minor,
1596 and it is in the best interest of the minor that a court of this
1597 state assume jurisdiction; or



1598 (f) The child has been adopted in a foreign country,
1599 the agency that placed the minor for adoption is licensed in this
1600 state, and it is in the best interest of the child to be readopted
1601 in a court of this state having jurisdiction.

1602 (2) A court of this state may not exercise jurisdiction over
1603 a proceeding for adoption of a minor if, at the time the petition
1604 for adoption is filed, a proceeding concerning the custody or
1605 adoption of the minor is pending in a court of another state
1606 exercising jurisdiction substantially in conformity with the
1607 Uniform Child Custody Jurisdiction Act or this section unless the
1608 proceeding is stayed by the court of the other state.

1609 (3) If a court of another state has issued a decree or order
1610 concerning the custody of a minor who may be the subject of a
1611 proceeding for adoption in this state, a court of this state may
1612 not exercise jurisdiction over a proceeding for adoption of the
1613 minor unless:

1614 (a) The court of this state finds that the court of the
1615 state which issued the decree or order:

1616 (i) Does not have continuing jurisdiction to
1617 modify the decree or order under jurisdictional prerequisites
1618 substantially in accordance with the Uniform Child Custody
1619 Jurisdiction Act or has declined to assume jurisdiction to modify
1620 the decree or order; or

1621 (ii) Does not have jurisdiction over a proceeding
1622 for adoption substantially in conformity with subsection (1)(a)



1623 through (d) or has declined to assume jurisdiction over a
1624 proceeding for adoption; and

1625 (b) The court of this state has jurisdiction over the
1626 proceeding.

1627 (4) Any person may be adopted in accordance with the
1628 provisions of this chapter in term time or in vacation by an
1629 unmarried adult, by a married person whose spouse joins in the
1630 petition, by a married person whose spouse does not join in the
1631 petition because such spouse does not cohabit or reside with the
1632 petitioning spouse, and in any circumstances determined by the
1633 court that the adoption is in the best interest of the child.
1634 Only the consenting adult will be a legal parent of the child.
1635 The adoption shall be by sworn petition filed in the chancery
1636 court of the county in which the adopting petitioner or
1637 petitioners reside or in which the child to be adopted resides or
1638 was born, or was found when it was abandoned or deserted, or in
1639 which the home is located to which the child has been surrendered
1640 by a person authorized to so do. The petition shall be
1641 accompanied by a doctor's or nurse practitioner's certificate
1642 showing the physical and mental condition of the child to be
1643 adopted and a sworn statement of all property, if any, owned by
1644 the child. In addition, the petition shall be accompanied by
1645 affidavits of the petitioner or petitioners stating the amount of
1646 the service fees charged by any adoption agencies or adoption
1647 facilitators used by the petitioner or petitioners and any other



1648 expenses paid by the petitioner or petitioners in the adoption
1649 process as of the time of filing the petition. If the doctor's or
1650 nurse practitioner's certificate indicates any abnormal mental or
1651 physical condition or defect, the condition or defect shall not,
1652 in the discretion of the chancellor, bar the adoption of the child
1653 if the adopting parent or parents file an affidavit stating full
1654 and complete knowledge of the condition or defect and stating a
1655 desire to adopt the child, notwithstanding the condition or
1656 defect. The court shall have the power to change the name of the
1657 child as a part of the adoption proceedings. The word "child" in
1658 this section shall be construed to refer to the person to be
1659 adopted, though an adult.

1660 (5) No person may be placed in the home of or adopted by the
1661 prospective adopting parties before a court-ordered or voluntary
1662 home study is satisfactorily completed by a licensed adoption
1663 agency, a licensed, experienced social worker approved by the
1664 chancery court, a court-appointed guardian ad litem that has
1665 knowledge or training in conducting home studies if so directed by
1666 the court, or by the Department of Child Protection Services on
1667 the prospective adoptive parties if required by Section 93-17-11.

1668 (6) No person may be adopted by a person or persons who
1669 reside outside the State of Mississippi unless the provisions of
1670 the Interstate Compact for Placement of Children (Section 43-18-1
1671 et seq.) have been complied with. In such cases Forms 100A, 100B
1672 (if applicable) and evidence of Interstate Compact for Placement



1673 of Children approval shall be added to the permanent adoption
1674 record file within one (1) month of the placement, and a minimum
1675 of two (2) post-placement reports conducted by a licensed
1676 child-placing agency shall be provided to the Mississippi
1677 Department of Child Protection Services Interstate Compact for
1678 Placement of Children office.

1679 (7) No person may be adopted unless the provisions of the
1680 Indian Child Welfare Act (ICWA) have been complied with, if
1681 applicable. When applicable, proof of compliance shall be
1682 included in the court adoption file prior to finalization of the
1683 adoption. If not applicable, a written statement or paragraph in
1684 the petition for adoption shall be included in the adoption
1685 petition stating that the provisions of ICWA do not apply before
1686 finalization.

1687 (8) The readoption of a child who has automatically acquired
1688 United States citizenship following an adoption in a foreign
1689 country and who possesses a Certificate of Citizenship in
1690 accordance with the Child Citizenship Act, CAA, Public Law
1691 106-395, may be given full force and effect in a readoption
1692 proceeding conducted by a court of competent jurisdiction in this
1693 state by compliance with the Mississippi Registration of Foreign
1694 Adoptions Act, Article 9 of this chapter.

1695 (9) For adult adoptees who consent to the adoption, a
1696 chancellor may waive any of the petition requirements and



1697 procedural requirements within subsections (4), (5), (6) and (7)
1698 of this section.

1699 (10) The clerk shall docket cases seeking relief under this
1700 chapter as priority cases. The assigned judge shall be
1701 immediately notified when a case is filed in order to provide for
1702 expedited proceedings.

1703 * * *

1704 **SECTION 17.** Section 89-2-3, Mississippi Code of 1972, is
1705 amended as follows:

1706 89-2-3. The term "outdoor recreational purposes" as used in
1707 this article shall include, but not necessarily be limited to,
1708 hunting, fishing, swimming, boating, camping, picnicking, hiking,
1709 cycling, pleasure driving, nature study, water skiing and visiting
1710 historical, archaeological, scenic or scientific sites.

1711 **SECTION 18.** Section 89-2-25, Mississippi Code of 1972, is
1712 amended as follows:

1713 89-2-25. Any landowner who gives permission to another
1714 person to hunt, fish, trap, camp, hike, cycle or sightsee upon
1715 land or premises shall not, by the sole act of giving such
1716 permission, be considered or construed to have:

1717 (a) Extended any assurance that the premises are safe
1718 for such purposes;

1719 (b) Caused the person to whom permission has been
1720 granted to be constituted the legal status of an invitee to whom a
1721 duty of care is owed; or



1722 (c) Assumed responsibility or liability for any injury
1723 to such person or his property caused by any act of such person to
1724 whom permission has been granted, except as provided in Section
1725 89-2-27.

1726 **SECTION 19.** This act shall take effect and be in force from
1727 and after July 1, 2024.

