

By: Representatives Denton, Thompson

To: Judiciary A; Youth and
Family Affairs

HOUSE BILL NO. 886

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ANY PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT
3 OF HUMAN SERVICES OR CHILD PROTECTION SERVICES REGARDING FOSTER
4 CARE ISSUES TO APPEAL THE DECISION TO THE CHANCERY COURT OF THE
5 COUNTY OF HIS OR HER RESIDENCE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-15-13, Mississippi Code of 1972, is
8 amended as follows:

9 43-15-13. (1) For purposes of this section, "children"
10 means persons found within the state who are under the age of
11 twenty-one (21) years, and who were placed in the custody of the
12 Department of Child Protection Services by the youth court of the
13 appropriate county. For purposes of this chapter, "commercial
14 sexual exploitation" means any sexual act or crime of a sexual
15 nature, which is committed against a child for financial or
16 economic gain, to obtain a thing of value, for quid pro quo
17 exchange of property or any other purpose.



18 (2) The Department of Child Protection Services shall
19 establish a foster care placement program for children whose
20 custody lies with the department, with the following objectives:

21 (a) Protecting and promoting the health, safety and
22 welfare of children;

23 (b) Preventing the unnecessary separation of children
24 from their families by identifying family problems, assisting
25 families in resolving their problems and preventing the breakup of
26 the family where the prevention of child removal is desirable and
27 possible when the child can be cared for at home without
28 endangering the child's health and safety;

29 (c) Remediating or assisting in the solution of problems
30 that may result in the neglect, abuse, exploitation, commercial
31 sexual exploitation, human trafficking or delinquency of children;

32 (d) Restoring to their families children who have been
33 removed, by the provision of services to the child and the
34 families when the child can be cared for at home without
35 endangering the child's health and safety;

36 (e) Placing children in suitable adoptive homes
37 approved by a licensed adoption agency or family protection
38 specialist, in cases where restoration to the biological family is
39 not safe, possible or appropriate;

40 (f) Assuring safe and adequate care of children away
41 from their homes, in cases where the child cannot be returned home
42 or cannot be placed for adoption, including temporary or emergency



43 placement with a relative or fictive kin pending youth court
44 action on the case. At the time of placement, the department
45 shall implement concurrent planning, as described in subsection
46 (8) of this section, so that permanency may occur at the earliest
47 opportunity. Consideration of possible failure or delay of
48 reunification should be given, to the end that the placement made
49 is the best available placement to provide permanency for the
50 child; and

51 (g) Providing a family protection specialist or worker
52 or team of such specialists or workers for a family and child
53 throughout the implementation of their permanent living
54 arrangement plan. Wherever feasible, the same family protection
55 specialist or worker or team shall remain on the case until the
56 child is no longer under the jurisdiction of the youth court.

57 (3) The Department of Child Protection Services shall
58 administer a system of individualized plans, reviews and reports
59 once every six (6) months for each child under its custody within
60 the State of Mississippi, which document each child who has been
61 adjudged a neglected, abandoned or abused child, including a child
62 alleged to have experienced commercial sexual exploitation and/or
63 human trafficking and whose custody was changed by court order as
64 a result of that adjudication, and each public or private facility
65 licensed by the department. The Department of Child Protection
66 Services' administrative review shall be completed on each child
67 within the first three (3) months and a relative placement,



68 fictive kin placement, or foster care review once every six (6)
69 months after the child's initial forty-eight-hour shelter hearing.
70 That system shall be for the purpose of enhancing potential family
71 life for the child by the development of individual plans to
72 return the child to the child's natural parent or parents, or to
73 refer the child to the appropriate court for termination of
74 parental rights and placement in a permanent relative's home,
75 adoptive home or foster/adoptive home. The goal of the Department
76 of Child Protection Services shall be to return the child to the
77 child's natural parent(s) or refer the child to the appropriate
78 court for termination of parental rights and placement in a
79 permanent relative's home, adoptive home or foster/adoptive home
80 within the time periods specified in this subsection or in
81 subsection (4) of this section. In furthering this goal, the
82 department shall establish policy and procedures designed to
83 appropriately place children in permanent homes, and provide
84 counseling services and other appropriate services to children who
85 have been victims of commercial sexual exploitation or human
86 trafficking. The policy shall include a system of reviews for all
87 children in foster care, as follows: foster care counselors in
88 the department shall make all possible contact with the child's
89 natural parent(s), custodial parent(s) of all siblings of the
90 child, and any interested relative for the first two (2) months
91 following the child's entry into the foster care system, and
92 provide care for victims of commercial sexual exploitation or



93 human trafficking. For purposes of contacting custodial parent(s)
94 of a sibling, siblings include those who are considered a sibling
95 under state law, and those who would have been considered a
96 sibling under state law, except for termination or disruption of
97 parental rights. For any child who has been in foster care for
98 fifteen (15) of the last twenty-two (22) months regardless of
99 whether the foster care was continuous for all of those twenty-two
100 (22) months, the department shall file a petition to terminate the
101 parental rights of the child's parents. The time period starts to
102 run from the date the court makes a finding of abuse and/or
103 neglect, or commercial sexual exploitation or human trafficking,
104 or sixty (60) days from when the child was removed from his or her
105 home, whichever is earlier. The department can choose not to file
106 a termination of parental rights petition if the following apply:

107 (a) The child is being cared for by a relative; and/or
108 (b) The department has documented compelling and
109 extraordinary reasons why termination of parental rights would not
110 be in the best interests of the child. Before granting or denying
111 a request by the department for an extension of time for filing a
112 termination of parental rights action, the court shall receive a
113 written report on the progress which a parent of the child has
114 made in treatment, to be made to the court in writing by a mental
115 health/substance abuse therapist or counselor.

116 (4) In the case of any child who is placed in foster care on
117 or after July 1, 1998, except in cases of aggravated circumstances



118 prescribed in Section 43-21-603(7)(c), the child's natural
119 parent(s) will have a reasonable time to be determined by the
120 court, which shall not exceed a six-month period of time, in which
121 to meet the service agreement with the department for the benefit
122 of the child unless the department has documented extraordinary
123 and compelling reasons for extending the time period in the best
124 interest of the child. If this agreement has not been
125 satisfactorily met, simultaneously the child will be referred to
126 the appropriate court for termination of parental rights and
127 placement in a permanent relative's home, adoptive home or a
128 foster/adoptive home. For children under the age of three (3)
129 years, termination of parental rights shall be initiated within
130 six (6) months, unless the department has documented compelling
131 and extraordinary circumstances, and placement in a permanent
132 relative's home, adoptive home or foster/adoptive home within two
133 (2) months. For children who have been abandoned under the
134 provisions of Section 97-5-1, termination of parental rights shall
135 be initiated within thirty (30) days and placement in an adoptive
136 home shall be initiated without necessity for placement in a
137 foster home. The department need not initiate termination of
138 parental rights proceedings where the child has been placed in
139 durable legal custody, durable legal relative guardianship, or
140 long-term or formalized foster care by a court of competent
141 jurisdiction.



(5) The foster care review once every six (6) months shall be conducted by the youth court or its designee(s), and/or by personnel within the Department of Child Protection Services or by a designee or designees of the department and may include others appointed by the department, and the review shall include at a minimum an evaluation of the child based on the following:

(a) The extent of the care and support provided by the parents or parent while the child is in temporary custody;

(b) The extent of communication with the child by parents, parent or guardian;

(c) The degree of compliance by the agency and the parents with the social service plan established;

(d) The methods of achieving the goal and the plan establishing a permanent home for the child;

(e) Social services offered and/or utilized to facilitate plans for establishing a permanent home for the child; and

(f) Relevant testimony and recommendations from the foster parent of the child, the grandparents of the child, the guardian ad litem of the child, when appointed, the Court-Appointed Special Advocate (CASA) of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned to the case, and any other relevant testimony pertaining to the case.



Each child's review plan once every six (6) months shall be filed with the court which awarded custody and shall be made available to natural parents or foster parents upon approval of the court. The court shall make a finding as to the degree of compliance by the agency and the parent(s) with the child's social service plan. The court also shall find that the child's health and safety are the paramount concern. In the interest of the child, the court shall, where appropriate, initiate proceedings on its own motion. The Department of Child Protection Services shall report to the Legislature as to the number of those children, the findings of the foster care review board and relevant statistical information in foster care in a semiannual report to the Legislature to be submitted to the Joint Oversight Committee of the Department of Child Protection Services. The report shall not refer to the specific name of any child in foster care.

(6) (a) The Department of Child Protection Services, with the cooperation and assistance of the State Department of Health, shall develop and implement a training program for foster care parents to indoctrinate them as to their proper responsibilities upon a child's entry into their foster care. The program shall provide a minimum of twelve (12) clock hours of training, which shall include training foster care parents about providing mental and physical support to children who have experienced commercial sexual exploitation or human trafficking. The foster care training program shall be satisfactorily completed by such foster



192 care parents before or within ninety (90) days after child
193 placement with the parent. Record of the foster care parent's
194 training program participation shall be filed with the court as
195 part of a child's foster care review plan once every six (6)
196 months.

197 (b) (i) The court may waive foster care training for
198 an appropriate relative placement.

199 (ii) A relative exempted from foster care training
200 is not eligible for board payments, foster care payments, kinship
201 care payments, therapeutic care payments, or any other monthly
202 payments from the department to assist in the care of the child.

203 (7) When the Department of Child Protection Services is
204 considering placement of a child in a foster home and when the
205 department deems it to be in the best interest of the child, the
206 department shall give first priority to placing the child in the
207 home of one (1) of the child's relatives within the third degree,
208 as computed by the civil law rule.

209 (a) In placing the child in a relative's home, the
210 department may waive any rule, regulation or policy applicable to
211 placement in foster care that would otherwise require the child to
212 have a separate bed or bedroom or have a bedroom of a certain
213 size, if placing the child in a relative's home would be in the
214 best interest of the child and those requirements cannot be met in
215 the relative's home.



(b) The court may waive foster care training for a relative only when appropriate.

(8) The Legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practicably possible. To achieve this goal, the Department of Child Protection Services is directed to conduct concurrent planning so that a permanent living arrangement may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status. When a child is placed in foster care or relative care, the department shall first ensure and document that reasonable efforts, as defined in Section 43-21-105, were made to prevent or eliminate the need to remove the child from the child's home. The department's first priority shall be to make reasonable efforts to reunify the family when temporary placement of the child occurs or shall request a finding from the court that reasonable efforts are not appropriate or have been unsuccessful. A decision to place a child in foster care or relative care shall be made with consideration of the child's health, safety and best interests. At the time of placement, consideration should also be given so



that if reunification fails or is delayed, the placement made is the best available placement to provide a permanent living arrangement for the child. The department shall adopt rules addressing concurrent planning for reunification and a permanent living arrangement. The department shall consider the following factors when determining appropriateness of concurrent planning:

- (a) The likelihood of prompt reunification;
- (b) The past history of the family;
- (c) The barriers to reunification being addressed by the family;
- (d) The level of cooperation of the family;
- (e) The foster parents' willingness to work with the family to reunite;
- (f) The willingness and ability of the foster family or relative placement to provide an adoptive home or long-term placement;
- (g) The age of the child; and
- (h) Placement of siblings.

(9) If the department has placed a child in foster care or relative care under a court order, the department may not change the child's placement unless the department specifically documents to the court that the current placement is unsafe or unsuitable or that another placement is in the child's best interests unless the new placement is in an adoptive home or other permanent placement. Except in emergency circumstances as determined by the department



or where the court orders placement of the child under Section 43-21-303, the foster parents, grandparents or other relatives of the child shall be given an opportunity to contest the specific reasons documented by the department at least seventy-two (72) hours before any such departure, and the court may conduct a review of that placement unless the new placement is in an adoptive home or other permanent placement. When a child is returned to foster care or relative care, the former foster parents or relative placement shall be given the prior right of return placement in order to eliminate additional trauma to the child.

(10) The Department of Child Protection Services shall provide the foster parents, grandparents or other relatives with at least a seventy-two-hour notice of departure for any child placed in their foster care or relative care, except in emergency circumstances as determined by the department or where the court orders placement of the child under Section 43-21-303. The parent/legal guardian, grandparents of the child, guardian ad litem and the court exercising jurisdiction shall be notified in writing when the child leaves foster care or relative care placement, regardless of whether the child's departure was planned or unplanned. The only exceptions to giving a written notice to the parent(s) are when a parent has voluntarily released the child for adoption or the parent's legal rights to the child have been terminated through the appropriate court with jurisdiction.



291 (11) There is hereby created a Foster Parents' Bill of
292 Rights and Responsibilities which shall be provided to all foster
293 parents at foster parent training. The Department of Child
294 Protection Services shall extend the following rights to persons
295 who provide foster care and relative care:

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

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

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

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

311 (e) The opportunity to communicate with professionals
312 who work with the foster child including therapists, physicians
313 and teachers who work directly with the child;

314 (f) The opportunity to communicate and collaborate,
315 without threat of reprisal, with a department representative when



316 further educational services are needed to ensure the child's
317 educational needs are met, including services such as an
318 Individualized Educational Plan (IEP), tutoring, occupational
319 therapy, speech therapy and after-school programs;

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

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

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

337 (j) When the dates of the permanency hearing and
338 permanency review hearing have been set by the youth court, and if
339 necessary to fulfill the notice requirements, the judge or the
340 judge's designee shall order the clerk of the youth court to issue



a summons to the foster parents to appear personally at the hearings as provided by Section 43-21-501;

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

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

(m) The opportunity to participate in the planning of visitations between the child and the child's siblings, parents or former guardians or other biological family members which have been previously authorized by the youth court. Visitations shall be scheduled at a time and place meeting the needs of the child, the biological family, and the foster family. Recognizing that visitation with family members is an important right of children in foster care, foster parents shall be flexible and cooperative with regard to family visits but shall retain the right to reasonable advance notice of all scheduled visitations;



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

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

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

(i) A copy of the "Foster Child Information Form" and all other pertinent information about the child and the birth family, including medical, dental, behavioral health history, psychological information, educational status, cultural and family background, and other issues relevant to the child which are known to the department at the time the child is placed in foster care prior to the child's placement with a foster parent or parents. The department shall make reasonable efforts to gather and provide all additional current medical, dental, behavioral, educational and psychological information reasonably available from the child's service providers within fifteen (15) days of placement. When the department learns of such information after fifteen (15)



days of placement, the department shall communicate such information to the foster parent as soon as practicable;

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

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

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

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

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

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

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

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



414 (t) Information related to all costs eligible for
415 reimbursement, including:

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

420 (ii) Reimbursement for property damages caused by
421 children in the custody of the Department of Child Protection
422 Services in an amount not to exceed Five Hundred Dollars
423 (\$500.00), as evidenced by written documentation. The Department
424 of Child Protection Services shall not incur liability for any
425 damages as a result of providing this reimbursement.

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

429 (a) Understanding the department's function in regard
430 to the foster care and relative care program and related social
431 service programs;

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

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

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



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

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

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

449 (h) Cooperating with any plan to reunite the child with
450 his birth family and work with the birth family to achieve this
451 goal; and

452 (i) Attending dispositional review hearings and
453 termination of parental rights hearings conducted by a court of
454 competent jurisdiction, or providing their recommendations to the
455 guardian ad litem in writing.

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

459 (14) Nothing in this section shall be construed to create a
460 private right of action or claim on the part of any individual,
461 the department, or any child-placing agency; however any parent,
462 foster parent or next of kin who desires to appeal a decision of
463 the Department of Human Services or Child Protection Services



464 regarding foster care issues, except as otherwise provided in
465 Section 93-15-133 for termination of parental rights, shall file
466 the appeal with the chancery court of the county in which he or
467 she resides.

468 **SECTION 2.** This act shall take effect and be in force from
469 and after July 1, 2025.

