

By: Representative Porter

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1101

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A FOSTER PARENT TO SUBMIT MONTHLY EXPENSE REPORTS TO
3 THE DEPARTMENT OF CHILD PROTECTION SERVICES THAT DETAIL COSTS FOR
4 A CHILD'S CARE; TO AMEND SECTION 43-15-17, MISSISSIPPI CODE OF
5 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
6 PURPOSES.

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

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

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



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

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

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

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

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

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

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



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

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

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



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



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

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

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



119 prescribed in Section 43-21-603(7)(c), the child's natural
120 parent(s) will have a reasonable time to be determined by the
121 court, which shall not exceed a six-month period of time, in which
122 to meet the service agreement with the department for the benefit
123 of the child unless the department has documented extraordinary
124 and compelling reasons for extending the time period in the best
125 interest of the child. If this agreement has not been
126 satisfactorily met, simultaneously the child will be referred to
127 the appropriate court for termination of parental rights and
128 placement in a permanent relative's home, adoptive home or a
129 foster/adoptive home. For children under the age of three (3)
130 years, termination of parental rights shall be initiated within
131 six (6) months, unless the department has documented compelling
132 and extraordinary circumstances, and placement in a permanent
133 relative's home, adoptive home or foster/adoptive home within two
134 (2) months. For children who have been abandoned under the
135 provisions of Section 97-5-1, termination of parental rights shall
136 be initiated within thirty (30) days and placement in an adoptive
137 home shall be initiated without necessity for placement in a
138 foster home. The department need not initiate termination of
139 parental rights proceedings where the child has been placed in
140 durable legal custody, durable legal relative guardianship, or
141 long-term or formalized foster care by a court of competent
142 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



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

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

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

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

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



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

219 (8) The Legislature recognizes that the best interests of
220 the child require that the child be placed in the most permanent
221 living arrangement as soon as is practicably possible. To achieve
222 this goal, the Department of Child Protection Services is directed
223 to conduct concurrent planning so that a permanent living
224 arrangement may occur at the earliest opportunity. Permanent
225 living arrangements may include prevention of placement of a child
226 outside the home of the family when the child can be cared for at
227 home without endangering the child's health or safety;
228 reunification with the family, when safe and appropriate, if
229 temporary placement is necessary; or movement of the child toward
230 the most permanent living arrangement and permanent legal status.
231 When a child is placed in foster care or relative care, the
232 department shall first ensure and document that reasonable
233 efforts, as defined in Section 43-21-105, were made to prevent or
234 eliminate the need to remove the child from the child's home. The
235 department's first priority shall be to make reasonable efforts to
236 reunify the family when temporary placement of the child occurs or
237 shall request a finding from the court that reasonable efforts are
238 not appropriate or have been unsuccessful. A decision to place a
239 child in foster care or relative care shall be made with
240 consideration of the child's health, safety and best interests.
241 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.



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

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

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

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

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

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

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



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

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

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

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

338 (j) When the dates of the permanency hearing and
339 permanency review hearing have been set by the youth court, and if
340 necessary to fulfill the notice requirements, the judge or the
341 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)



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

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

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

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

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

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

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

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

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



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

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

421 Before reimbursement may occur, the foster parent shall submit a
422 monthly expense report to the department detailing costs of the
423 child's care; and

424 (ii) Reimbursement for property damages caused by
425 children in the custody of the Department of Child Protection
426 Services in an amount not to exceed Five Hundred Dollars
427 (\$500.00), as evidenced by written documentation. The Department
428 of Child Protection Services shall not incur liability for any
429 damages as a result of providing this reimbursement.

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

433 (a) Understanding the department's function in regard
434 to the foster care and relative care program and related social
435 service programs;

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

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



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

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

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

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

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

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

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



(14) Nothing in this section shall be construed to create a private right of action or claim on the part of any individual, the department, or any child-placing agency.

SECTION 2. Section 43-15-17, Mississippi Code of 1972, is amended as follows:

43-15-17. (1) The Department of Child Protection Services is authorized to make such payments as may be appropriate for supportive services to facilitate either the return of children to their natural parents or their adoption, depending upon and contingent upon the availability of the Department of Child Protection Services securing or having sufficient funds to render this supportive service. Upon court order, the parent(s) shall be responsible for reimbursing the department for any foster care or kinship care payments made on behalf of his or her child, based upon financial ability to pay, until such time as there is a termination of parental rights regarding the child, or the child is adopted.

(2) Subject to a foster parents' submittal of a monthly expense report as required under Section 43-15-17(11), for those children placed in foster care by the state or county departments of human services, the department shall make monthly payments for the support of these children's room and board, clothing, allowance and personal needs. From and after July 1, 1998, and subject to the availability of funds specifically appropriated therefor, the Department of Child Protection Services' foster care



488 and therapeutic care monthly payment schedule in effect before
489 that date shall be increased by One Hundred Dollars (\$100.00) per
490 month, with that minimum payment not to preclude the department
491 from increasing payments in later years as funds become available.
492 From and after July 1, 1998, in order for foster parents to
493 receive the monthly payments authorized under this subsection (2),
494 the Department of Child Protection Services shall require foster
495 care placements to be licensed as foster care homes and shall
496 require prospective foster parents to satisfactorily complete an
497 appropriate training program that emphasizes the goal of the
498 foster care program to provide stable foster placement until a
499 permanency outcome is achieved.

500 (3) For a child placed in the care of the child's relative
501 within the third degree by the state or county departments of
502 human services, unless a child is placed in the care of a relative
503 who is exempt from foster care training requirements, the
504 department shall make monthly payments to defray the relative's
505 expense of furnishing room and board. The department's relative
506 care payment shall be in an amount up to one hundred percent
507 (100%) of the amount of the foster care board payment. The
508 department may continue to make those payments to the relative
509 after the department relinquishes legal custody of the child to
510 the relative if the relative has complied with foster care
511 training requirements. Any such payments for relative care shall
512 be subject to specific appropriation therefor by the Legislature.



513 **SECTION 3.** This act shall take effect and be in force from
514 and after July 1, 2025.

