

By: Representatives Cockerham, Anthony

To: Youth and Family Affairs

HOUSE BILL NO. 1387

1 AN ACT TO AMEND SECTION 43-15-17, MISSISSIPPI CODE OF 1972,  
2 TO REVISE WHICH RELATIVES MAY RECEIVE REIMBURSEMENT FOR THE CARE  
3 OF FOSTER CHILDREN; TO AMEND SECTION 43-21-105, MISSISSIPPI CODE  
4 OF 1972, TO AMEND THE DEFINITION OF FICTIVE KIN; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** Section 43-15-17, Mississippi Code of 1972, is  
8 amended as follows:

9 43-15-17. (1) The Department of Child Protection Services  
10 is authorized to make such payments as may be appropriate for  
11 supportive services to facilitate either the return of children to  
12 their natural parents or their adoption, depending upon and  
13 contingent upon the availability of the Department of Child  
14 Protection Services securing or having sufficient funds to render  
15 this supportive service. Upon court order, the parent(s) shall be  
16 responsible for reimbursing the department for any foster care or  
17 kinship care payments made on behalf of his or her child, based  
18 upon financial ability to pay, until such time as there is a



19 termination of parental rights regarding the child, or the child  
20 is adopted.

21 (2) For those children placed in foster care by \* \* \* Child  
22 Protection Services, the department shall make monthly payments  
23 for the support of these children's room and board, clothing,  
24 allowance and personal needs. From and after July 1, 1998, and  
25 subject to the availability of funds specifically appropriated  
26 therefor, the Department of Child Protection Services' foster care  
27 and therapeutic care monthly payment schedule in effect before  
28 that date shall be increased by One Hundred Dollars (\$100.00) per  
29 month, with that minimum payment not to preclude the department  
30 from increasing payments in later years as funds become available.  
31 From and after July 1, 1998, in order for foster parents to  
32 receive the monthly payments authorized under this subsection (2),  
33 the Department of Child Protection Services shall require foster  
34 care placements to be licensed as foster care homes and shall  
35 require prospective foster parents to satisfactorily complete an  
36 appropriate training program that emphasizes the goal of the  
37 foster care program to provide stable foster placement until a  
38 permanency outcome is achieved.

39 (3) \* \* \* For a child placed by the Department of Child  
40 Protection Services in the care of any adult related by blood,  
41 marriage, or adoption within the third degree or who makes up the  
42 family support system of the child, including adults related  
43 beyond the third degrees, godparents, friends of the family, or



44 other adults who have a strong familial bond with the child,  
45 unless a child is placed in the care of a relative who is exempt  
46 from foster care training requirements, the department shall make  
47 monthly payments to defray the relative's expense of furnishing  
48 room and board. The department's relative care payment shall be  
49 in an amount up to one hundred percent (100%) of the amount of the  
50 foster care board payment. The department may continue to make  
51 those payments to the relative after the department relinquishes  
52 legal custody of the child to the relative if the relative has  
53 complied with foster care training requirements. Any such  
54 payments for relative care shall be subject to specific  
55 appropriation therefor by the Legislature.

56 **SECTION 2.** Section 43-21-105, Mississippi Code of 1972, is  
57 amended as follows:

58 43-21-105. The following words and phrases, for purposes of  
59 this chapter, shall have the meanings ascribed herein unless the  
60 context clearly otherwise requires:

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

62 (b) "Judge" means the judge of the Youth Court  
63 Division.

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



68 Mississippi Department of Human Services or the Mississippi  
69 Department of Child Protection Services to be his designee.

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

75 (e) "Parent" means the father or mother to whom the  
76 child has been born, or the father or mother by whom the child has  
77 been legally adopted.

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

80 (g) "Custodian" means any person having the present  
81 care or custody of a child whether such person be a parent or  
82 otherwise.

83 (h) "Legal custodian" means a court-appointed custodian  
84 of the child.

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

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



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

96 (i) Is habitually disobedient of reasonable and  
97 lawful commands of his parent, guardian or custodian and is  
98 ungovernable; or

99 (ii) While being required to attend school,  
100 willfully and habitually violates the rules thereof or willfully  
101 and habitually absents himself therefrom; or

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

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

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

105 (i) Whose parent, guardian or custodian or any  
106 person responsible for his care or support, neglects or refuses,  
107 when able so to do, to provide for him proper and necessary care  
108 or support, or education as required by law, or medical, surgical,  
109 or other care necessary for his well-being; however, a parent who  
110 withholds medical treatment from any child who in good faith is  
111 under treatment by spiritual means alone through prayer in  
112 accordance with the tenets and practices of a recognized church or  
113 religious denomination by a duly accredited practitioner thereof  
114 shall not, for that reason alone, be considered to be neglectful  
115 under any provision of this chapter; or

116 (ii) Who is otherwise without proper care,  
117 custody, supervision or support; or



118 (iii) Who, for any reason, lacks the special care  
119 made necessary for him by reason of his mental condition, whether  
120 the mental condition is having mental illness or having an  
121 intellectual disability; or

122 (iv) Who is not provided by the child's parent,  
123 guardian or custodian, with food, clothing, or shelter necessary  
124 to sustain the life or health of the child, excluding such failure  
125 caused primarily by financial inability unless relief services  
126 have been offered and refused and the child is in imminent risk of  
127 harm.

128 (m) "Abused child" means a child whose parent, guardian  
129 or custodian or any person responsible for his care or support,  
130 whether legally obligated to do so or not, has caused or allowed  
131 to be caused, upon the child, sexual abuse, sexual exploitation,  
132 commercial sexual exploitation, emotional abuse, mental injury,  
133 nonaccidental physical injury or other maltreatment. However,  
134 physical discipline, including spanking, performed on a child by a  
135 parent, guardian or custodian in a reasonable manner shall not be  
136 deemed abuse under this section. "Abused child" also means a  
137 child who is or has been trafficked within the meaning of the  
138 Mississippi Human Trafficking Act by any person, without regard to  
139 the relationship of the person to the child.

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



143 such forms of sexual exploitation of children under circumstances  
144 which indicate that the child's health or welfare is harmed or  
145 threatened.

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

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

155 (q) "Custody" means the physical possession of the  
156 child by any person.

157 (r) "Legal custody" means the legal status created by a  
158 court order which gives the legal custodian the responsibilities  
159 of physical possession of the child and the duty to provide him  
160 with food, shelter, education and reasonable medical care, all  
161 subject to residual rights and responsibilities of the parent or  
162 guardian of the person.

163 (s) "Detention" means the care of children in  
164 physically restrictive facilities.

165 (t) "Shelter" means care of children in physically  
166 nonrestrictive facilities.



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

169 (i) All youth court records as defined in Section  
170 43-21-251;

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

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

175 (iv) All agency records as defined in Section  
176 43-21-257; and

177 (v) All other documents maintained by any  
178 representative of the state, county, municipality or other public  
179 agency insofar as they relate to the apprehension, custody,  
180 adjudication or disposition of a child who is the subject of a  
181 youth court cause.

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

189 (w) The singular includes the plural, the plural the  
190 singular and the masculine the feminine when consistent with the  
191 intent of this chapter.





192           (x) "Out-of-home" setting means the temporary  
193 supervision or care of children by the staff of licensed day care  
194 centers, the staff of public, private and state schools, the staff  
195 of juvenile detention facilities, the staff of unlicensed  
196 residential care facilities and group homes and the staff of, or  
197 individuals representing, churches, civic or social organizations.

198           (y) "Durable legal custody" means the legal status  
199 created by a court order which gives the durable legal custodian  
200 the responsibilities of physical possession of the child and the  
201 duty to provide him with care, nurture, welfare, food, shelter,  
202 education and reasonable medical care. All these duties as  
203 enumerated are subject to the residual rights and responsibilities  
204 of the natural parent(s) or guardian(s) of the child or children.

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

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

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



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

218 (cc) "Screening" means a process, with or without the  
219 administration of a formal instrument, that is designed to  
220 identify a child who is at increased risk of having mental health,  
221 substance abuse or co-occurring mental health and substance abuse  
222 disorders that warrant immediate attention, intervention or more  
223 comprehensive assessment.

224 (dd) "Durable legal relative guardianship" means the  
225 legal status created by a youth court order that conveys the  
226 physical and legal custody of a child or children by durable legal  
227 guardianship to a relative or fictive kin who is licensed as a  
228 foster or resource parent.

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

231 (ff) "Fictive kin" means a person not related to the  
232 child legally or biologically but who is considered a relative due  
233 to a significant, familial-like and ongoing relationship with the  
234 child and family, including adults related beyond the third  
235 degree, godparents, friends of the family, or other adults who  
236 have a strong familial bond with the child.

237 (gg) "Reasonable efforts" means the exercise of  
238 reasonable care and due diligence by the Department of Human  
239 Services, the Department of Child Protection Services, or any  
240 other appropriate entity or person to use services appropriate to



241 the child's background, accessible, and available to meet the  
242 individualized needs of the child and child's family to prevent  
243 removal and reunify the family as soon as safely possible  
244 consistent with the best interests of the child. Reasonable  
245 efforts must be made in collaboration with the family and must  
246 address the individualized needs of the family that brought the  
247 child to the attention of the Department of Child Protection  
248 Services and must not consist of required services that are not  
249 related to the family's needs.

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

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

