

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.

