

By: Senator(s) Bryan

To: Judiciary, Division A

SENATE BILL NO. 2470

1 AN ACT TO AMEND SECTIONS 43-15-17 AND 43-21-105, MISSISSIPPI
2 CODE OF 1972, TO REVISE PROVISIONS RELATED TO KINSHIP SUPPORT
3 PAYMENTS; AND FOR RELATED PURPOSES.

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

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

7 43-15-17. (1) The Department of Child Protection Services
8 is authorized to make such payments as may be appropriate for
9 supportive services to facilitate either the return of children to
10 their natural parents or their adoption, depending upon and
11 contingent upon the availability of the Department of Child
12 Protection Services securing or having sufficient funds to render
13 this supportive service. Upon court order, the parent(s) shall be
14 responsible for reimbursing the department for any foster care or
15 kinship care payments made on behalf of his or her child, based
16 upon financial ability to pay, until such time as there is a
17 termination of parental rights regarding the child, or the child
18 is adopted.



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

(3) * * * For a child placed by the Department of Child Protection Services in the care of any adult related by blood, marriage, or adoption within the third degree or who makes up the family support system of the child, including adults related beyond the third degree, godparents, friends of the family, or other adults who have a strong familial bond with the child, unless a child is placed in the care of a relative who is exempt



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

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

56 43-21-105. The following words and phrases, for purposes of
57 this chapter, shall have the meanings ascribed herein unless the
58 context clearly otherwise requires:

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

60 (b) "Judge" means the judge of the Youth Court
61 Division.

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



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

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

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

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

81 (h) "Legal custodian" means a court-appointed custodian
82 of the child.

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

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



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

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

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

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

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

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

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

114 (ii) Who is otherwise without proper care,
115 custody, supervision or support; or



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

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

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

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



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

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

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

153 (q) "Custody" means the physical possession of the
154 child by any person.

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

161 (s) "Detention" means the care of children in
162 physically restrictive facilities.

163 (t) "Shelter" means care of children in physically
164 nonrestrictive facilities.



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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

