

By: Senator(s) Boyd

To: Judiciary, Division A

SENATE BILL NO. 2774

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF A YOUTH COURT GIVES LEGAL CUSTODY TO THE
3 DEPARTMENT OF CHILD PROTECTION SERVICES, THE DEPARTMENT SHALL HAVE
4 SOLE AUTHORITY TO DETERMINE AN APPROPRIATE PLACEMENT FOR THAT
5 CHILD; 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) If a youth court gives legal custody to the Department
19 of Child Protection Services, the department shall have sole



20 authority to determine an appropriate placement for that child.

21 The department * * * shall establish a foster care placement
22 program for children whose custody lies with the department, with
23 the following objectives:

24 (a) Protecting and promoting the health, safety and
25 welfare of children;

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

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

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

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

43 (f) Assuring safe and adequate care of children away
44 from their homes, in cases where the child cannot be returned home



45 or cannot be placed for adoption, including temporary or emergency
46 placement with a relative or fictive kin pending youth court
47 action on the case. At the time of placement, the department
48 shall implement concurrent planning, as described in subsection
49 (8) of this section, so that permanency may occur at the earliest
50 opportunity. Consideration of possible failure or delay of
51 reunification should be given, to the end that the placement made
52 is the best available placement to provide permanency for the
53 child; and

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

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



70 within the first three (3) months and a relative placement,
71 fictive kin placement, or foster care review once every six (6)
72 months after the child's initial forty-eight-hour shelter hearing.
73 That system shall be for the purpose of enhancing potential family
74 life for the child by the development of individual plans to
75 return the child to the child's natural parent or parents, or to
76 refer the child to the appropriate court for termination of
77 parental rights and placement in a permanent relative's home,
78 adoptive home or foster/adoptive home. The goal of the Department
79 of Child Protection Services shall be to return the child to the
80 child's natural parent(s) or refer the child to the appropriate
81 court for termination of parental rights and placement in a
82 permanent relative's home, adoptive home or foster/adoptive home
83 within the time periods specified in this subsection or in
84 subsection (4) of this section. In furthering this goal, the
85 department shall establish policy and procedures designed to
86 appropriately place children in permanent homes, and provide
87 counseling services and other appropriate services to children who
88 have been victims of commercial sexual exploitation or human
89 trafficking. The policy shall include a system of reviews for all
90 children in foster care, as follows: foster care counselors in
91 the department shall make all possible contact with the child's
92 natural parent(s), custodial parent(s) of all siblings of the
93 child, and any interested relative for the first two (2) months
94 following the child's entry into the foster care system, and



95 provide care for victims of commercial sexual exploitation or
96 human trafficking. For purposes of contacting custodial parent(s)
97 of a sibling, siblings include those who are considered a sibling
98 under state law, and those who would have been considered a
99 sibling under state law, except for termination or disruption of
100 parental rights. For any child who has been in foster care for
101 fifteen (15) of the last twenty-two (22) months regardless of
102 whether the foster care was continuous for all of those twenty-two
103 (22) months, the department shall file a petition to terminate the
104 parental rights of the child's parents. The time period starts to
105 run from the date the court makes a finding of abuse and/or
106 neglect, or commercial sexual exploitation or human trafficking,
107 or sixty (60) days from when the child was removed from his or her
108 home, whichever is earlier. The department can choose not to file
109 a termination of parental rights petition if the following apply:
110 (a) The child is being cared for by a relative; and/or
111 (b) The department has documented compelling and
112 extraordinary reasons why termination of parental rights would not
113 be in the best interests of the child. Before granting or denying
114 a request by the department for an extension of time for filing a
115 termination of parental rights action, the court shall receive a
116 written report on the progress which a parent of the child has
117 made in treatment, to be made to the court in writing by a mental
118 health/substance abuse therapist or counselor.



(4) In the case of any child who is placed in foster care on or after July 1, 1998, except in cases of aggravated circumstances prescribed in Section 43-21-603(7)(c), the child's natural parent(s) will have a reasonable time to be determined by the court, which shall not exceed a six-month period of time, in which to meet the service agreement with the department for the benefit of the child unless the department has documented extraordinary and compelling reasons for extending the time period in the best interest of the child. If this agreement has not been satisfactorily met, simultaneously the child will be referred to the appropriate court for termination of parental rights and placement in a permanent relative's home, adoptive home or a foster/adoptive home. For children under the age of three (3) years, termination of parental rights shall be initiated within six (6) months, unless the department has documented compelling and extraordinary circumstances, and placement in a permanent relative's home, adoptive home or foster/adoptive home within two (2) months. For children who have been abandoned under the provisions of Section 97-5-1, termination of parental rights shall be initiated within thirty (30) days and placement in an adoptive home shall be initiated without necessity for placement in a foster home. The department need not initiate termination of parental rights proceedings where the child has been placed in durable legal custody, durable legal relative guardianship, or



143 long-term or formalized foster care by a court of competent
144 jurisdiction.

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

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

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

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

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

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

162 (f) Relevant testimony and recommendations from the
163 foster parent of the child, the grandparents of the child, the
164 guardian ad litem of the child, when appointed, the
165 Court-Appointed Special Advocate (CASA) of the child,
166 representatives of any private care agency that has cared for the
167 child, the family protection worker or family protection



168 specialist assigned to the case, and any other relevant testimony
169 pertaining to the case.

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

185 (6) (a) The Department of Child Protection Services, with
186 the cooperation and assistance of the State Department of Health,
187 shall develop and implement a training program for foster care
188 parents to indoctrinate them as to their proper responsibilities
189 upon a child's entry into their foster care. The program shall
190 provide a minimum of twelve (12) clock hours of training, which
191 shall include training foster care parents about providing mental
192 and physical support to children who have experienced commercial



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

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

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

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

212 (a) In placing the child in a relative's home, the
213 department may waive any rule, regulation or policy applicable to
214 placement in foster care that would otherwise require the child to
215 have a separate bed or bedroom or have a bedroom of a certain
216 size, if placing the child in a relative's home would be in the



217 best interest of the child and those requirements cannot be met in
218 the relative's home.

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

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



242 consideration of the child's health, safety and best interests.
243 At the time of placement, consideration should also be given so
244 that if reunification fails or is delayed, the placement made is
245 the best available placement to provide a permanent living
246 arrangement for the child. The department shall adopt rules
247 addressing concurrent planning for reunification and a permanent
248 living arrangement. The department shall consider the following
249 factors when determining appropriateness of concurrent planning:

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

262 (9) If the department has placed a child in foster care or
263 relative care under a court order, the department may not change
264 the child's placement unless the department specifically documents
265 to the court that the current placement is unsafe or unsuitable or
266 that another placement is in the child's best interests unless the



267 new placement is in an adoptive home or other permanent placement.
268 Except in emergency circumstances as determined by the department
269 or where the court orders placement of the child under Section
270 43-21-303, the foster parents, grandparents or other relatives of
271 the child shall be given an opportunity to contest the specific
272 reasons documented by the department at least seventy-two (72)
273 hours before any such departure, and the court may conduct a
274 review of that placement unless the new placement is in an
275 adoptive home or other permanent placement. When a child is
276 returned to foster care or relative care, the former foster
277 parents or relative placement shall be given the prior right of
278 return placement in order to eliminate additional trauma to the
279 child.

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



292 for adoption or the parent's legal rights to the child have been
293 terminated through the appropriate court with jurisdiction.

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

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

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

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

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

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



317 (f) The opportunity to communicate and collaborate,
318 without threat of reprisal, with a department representative when
319 further educational services are needed to ensure the child's
320 educational needs are met, including services such as an
321 Individualized Educational Plan (IEP), tutoring, occupational
322 therapy, speech therapy and after-school programs;

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

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

336 Foster parents may communicate with the guardian ad litem in
337 writing at any time. Foster parents may ask to be heard
338 concerning the best interest of the child at any disposition or
339 permanency hearing;

340 (j) When the dates of the permanency hearing and
341 permanency review hearing have been set by the youth court, and if



342 necessary to fulfill the notice requirements, the judge or the
343 judge's designee shall order the clerk of the youth court to issue
344 a summons to the foster parents to appear personally at the
345 hearings as provided by Section 43-21-501;

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

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

359 (m) The opportunity to participate in the planning of
360 visitations between the child and the child's siblings, parents or
361 former guardians or other biological family members which have
362 been previously authorized by the youth court. Visitations shall
363 be scheduled at a time and place meeting the needs of the child,
364 the biological family, and the foster family. Recognizing that
365 visitation with family members is an important right of children
366 in foster care, foster parents shall be flexible and cooperative



367 with regard to family visits but shall retain the right to
368 reasonable advance notice of all scheduled visitations;

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

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

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

381 (i) A copy of the "Foster Child Information Form"
382 and all other pertinent information about the child and the birth
383 family, including medical, dental, behavioral health history,
384 psychological information, educational status, cultural and family
385 background, and other issues relevant to the child which are known
386 to the department at the time the child is placed in foster care
387 prior to the child's placement with a foster parent or parents.

388 The department shall make reasonable efforts to gather and provide
389 all additional current medical, dental, behavioral, educational
390 and psychological information reasonably available from the
391 child's service providers within fifteen (15) days of placement.

392 When the department learns of such information after fifteen (15)
393 days of placement, the department shall communicate such
394 information to the foster parent as soon as practicable;

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

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

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

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

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

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

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

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

417 (t) Information related to all costs eligible for
418 reimbursement, including:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

