

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



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

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

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



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

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

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

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

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



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

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

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



consideration of the child's health, safety and best interests.
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;



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;

328 (i) The opportunity to attend all youth court hearings
329 involving a foster child occurring while that child is placed in
330 their care without being a party to the youth court action, unless
331 the youth court determines that any foster parent should not be
332 present. Foster parents may attend all youth court hearings and
333 have legal counsel attend and observe with them if the child's
334 permanent plan is adoption by the foster parents, unless the youth
335 court determines that any foster parent should not be present.
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



necessary to fulfill the notice requirements, the judge or the 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) days of placement, the department shall communicate such information to the foster parent as soon as practicable;

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

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

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

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

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

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

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

(s) The opportunity to be heard regarding agency 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;



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

