

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2790

1 AN ACT TO AMEND SECTION 99-18-13, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE OFFICE OF STATE PUBLIC DEFENDER TO REPRESENT  
3 YOUTH IN DELINQUENCY AND/OR CHILD IN NEED OF SUPERVISION  
4 PROCEEDINGS; TO AMEND SECTION 43-21-201, MISSISSIPPI CODE OF 1972,  
5 TO CLARIFY RESPONSIBILITY FOR TRAINING OF ATTORNEYS REPRESENTING  
6 CHILDREN; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 99-18-13, Mississippi Code of 1972, is  
9 amended as follows:

10 99-18-13. (1) The State Defender is hereby empowered to pay  
11 and disburse salaries, employment benefits and charges relating to  
12 employment of division staff and to establish their salaries and  
13 expenses of the office; to incur and pay travel expenses of staff  
14 necessary for the performance of the duties of the office; to rent  
15 or lease on such terms as he may think proper such office space as  
16 is necessary in the City of Jackson to accommodate the staff; to  
17 enter into and perform contracts and to purchase such necessary  
18 office supplies and equipment as may be needed for the proper  
19 administration of said offices within the funds appropriated for



20 such purpose; and to incur and pay such other expenses as are  
21 appropriate and customary to the operation of the office.

22 (2) The State Defender may provide representation to youth  
23 in delinquency and child in need of supervision proceedings and  
24 parents or guardians who have been determined by the youth court  
25 judge to be indigent \* \* \* in an abuse, neglect or termination of  
26 parental rights proceeding or appeal therefrom. Representation  
27 may be provided by staff or contract counsel including, but not  
28 limited to, by contract with legal services organizations.

29 **SECTION 2.** Section 43-21-201, Mississippi Code of 1972, is  
30 amended as follows:

31 43-21-201. (1) (a) Each party shall have the right to be  
32 represented by counsel at all stages of the proceedings including,  
33 but not limited to, detention, shelter, adjudicatory and  
34 disposition hearings and parole or probation revocation  
35 proceedings.

36 (b) In delinquency matters the court shall appoint  
37 legal defense counsel who is not also a guardian ad litem for the  
38 same child. If the party is a child, the child shall be  
39 represented by counsel at all critical stages: detention,  
40 adjudicatory and disposition hearings; parole or probation  
41 revocation proceedings; and post-disposition matters. If  
42 indigent, the child shall have the right to have counsel appointed  
43 for him by the youth court.



44 (c) A child who is alleged to have been abused or  
45 neglected shall be deemed to be a party to the proceedings under  
46 this chapter. The child shall be represented by an attorney at  
47 all stages of any proceedings held pursuant to this chapter. The  
48 court shall appoint an attorney to any child who is unrepresented.  
49 Attorneys appointed under this subparagraph must have received  
50 child protection and juvenile justice training provided by or  
51 approved by the Mississippi Judicial College consistent with  
52 Section 43-21-121(4).

53 The guardian ad litem may serve a dual role as long as no  
54 conflict of interest is present. If a conflict of interest  
55 arises, the guardian ad litem shall inform the youth court of the  
56 conflict, and the youth court shall retain the guardian ad litem  
57 to represent the best interest of the child and appoint an  
58 attorney to represent the child's preferences as required by  
59 Uniform Rule of Youth Court Practice 13(f).

60 (2) (a) When a party first appears before the youth court,  
61 the judge shall ascertain whether he is represented by counsel  
62 and, if not, inform him of his rights including his right to  
63 counsel. If the court determines that a custodial parent or  
64 guardian who is a party in an abuse, neglect or termination of  
65 parental rights proceeding is indigent, the youth court judge  
66 shall appoint counsel to represent the indigent parent or guardian  
67 in the proceeding. The court may appoint counsel to represent a  
68 noncustodial parent if the court determines that the noncustodial



69 parent is indigent and has demonstrated a significant custodial  
70 relationship with the child. All parents have the right to be  
71 appointed counsel in termination of parental rights hearings, and  
72 the court shall appoint counsel if the court makes a finding that  
73 the parent is indigent and counsel is requested by the parent.  
74 For purposes of this section, indigency shall be determined  
75 pursuant to Section 25-32-9 and Rule 7.3 of the Mississippi Rules  
76 of Criminal Procedure.

77 (b) (i) The court shall order a financially able  
78 parent or custodian to pay all or part of reasonable attorney's  
79 fees and expenses for court-appointed representation after review  
80 by the court of an affidavit of financial means completed and  
81 verified by a parent or custodian and a determination by the court  
82 of an ability to pay.

83 (ii) All monies collected by the clerk under this  
84 paragraph must be retained by the clerk and deposited into a  
85 special fund to be known as the "Juvenile Court Representation  
86 Fund."

87 (iii) The Administrative Office of Courts may  
88 direct that money from the fund be used in providing counsel for  
89 indigent parents or custodians at the trial level in  
90 dependency-neglect proceedings.

91 (iv) Upon a determination of indigency and a  
92 finding by the court that the fund does not have sufficient funds  
93 to pay reasonable attorney's fees and expenses incurred at the



trial court level and that state funds have been exhausted, the court may order the county to pay the reasonable fees and expenses until the state provides funding for counsel.

(v) A special fund, to be designated as the "Juvenile Court Representation Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Monies in the fund shall be disbursed by the Administrative Office of Courts as provided in this section. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(3) An attorney appointed to represent a child in delinquency and/or children in need of supervision cases shall be required to complete annual juvenile justice training that is approved by the Mississippi Office of State Public Defender and the Mississippi Commission on Continuing Legal Education. An attorney appointed to represent a parent or guardian in an abuse, neglect or termination of parental rights proceeding shall be required to complete annual training that is approved by the Office of State Public Defender and the Mississippi Commission on Continuing Legal Education. The Mississippi Office of State Public Defender and the Mississippi Commission on Continuing Legal Education shall determine the amount of juvenile justice training



and continuing education required to fulfill the requirements of this subsection. The State Public Defender shall maintain a roll of attorneys who have complied with the training requirements and shall enforce the provisions of this subsection. Should an attorney fail to complete the annual training requirement or fail to attend the required training within six (6) months of being appointed to a youth court case, the attorney shall be disqualified to serve, and the youth court shall immediately terminate the representation and appoint another attorney. Attorneys appointed by a youth court to five (5) or fewer cases a year are exempt from the requirements of this subsection.

(4) Attorneys for all parties, including the child's attorney, shall owe the duties of undivided loyalty, confidentiality and competent representation to the party client pursuant to the Mississippi Rules of Professional Conduct.

(5) An attorney shall enter his appearance on behalf of a party in the proceeding by filing a written notice of appearance with the youth court, by filing a pleading, notice or motion signed by counsel or by appearing in open court and advising the youth court that he is representing a party. After counsel has entered his appearance, he shall be served with copies of all subsequent pleadings, motions and notices required to be served on the party he represents. An attorney who has entered his appearance shall not be permitted to withdraw from the case until a timely appeal, if any, has been decided, except by leave of the



144 court then exercising jurisdiction of the cause after notice of  
145 his intended withdrawal is served by him on the party he  
146 represents.

147 (6) Each designee appointed by a youth court judge shall be  
148 subject to the Code of Judicial Conduct and shall govern himself  
149 or herself accordingly.

150 (7) The Department of Child Protection Services shall be a  
151 necessary party at all stages of the proceedings involving a child  
152 for whom the department has custody, including, but not limited  
153 to, detention, shelter, adjudicatory, disposition, permanency,  
154 termination of parental rights and adoption hearings.

155 (8) The Department of Child Protection Services shall have  
156 the right to hire agency counsel to represent the department and  
157 be represented by counsel from the Attorney General's Office at  
158 all stages of the proceedings involving a child for whom the  
159 department has custody of or may be awarded custody of, including,  
160 but not limited to, detention shelter, adjudicatory disposition,  
161 permanency, termination of parental rights and adoption hearings.

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

