

## **House Amendments to Senate Bill No. 2771**

**TO THE SECRETARY OF THE SENATE:**

**THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:**

### **AMENDMENT NO. 1**

**Amend by striking all after the enacting clause and inserting in lieu thereof the following:**

13       **SECTION 1.** Section 43-21-613, Mississippi Code of 1972, is  
14 amended as follows:  
15       43-21-613. (1) If the youth court finds, after a hearing  
16 which complies with the sections governing adjudicatory hearings,  
17 that the terms of a delinquency or child in need of supervision  
18 disposition order, probation or parole have been violated, the  
19 youth court may, in its discretion, revoke the original  
20 disposition and make any disposition which it could have  
21 originally ordered. The hearing shall be initiated by the filing  
22 of a petition that complies with the sections governing petitions  
23 in this chapter and that includes a statement of the youth court's  
24 original disposition order, probation or parole, the alleged  
25 violation of that order, probation or parole, and the facts which  
26 show the violation of that order, probation or parole. Summons  
27 shall be served in the same manner as summons for an adjudicatory  
28 hearing.

29           (2) On motion of a child or a child's parent, guardian or  
30 custodian, the youth court may, in its discretion, conduct an  
31 informal hearing to review the disposition order. If the youth  
32 court finds a material change of circumstances relating to the  
33 disposition of the child, the youth court may modify the  
34 disposition order to any appropriate disposition of equal or  
35 greater precedence which the youth court could have originally  
36 ordered.

37           (3) (a) All disposition orders for supervision, probation  
38 or placement of a child with an individual or an agency shall be  
39 reviewed by the youth court judge or referee at least annually to  
40 determine if continued placement, probation or supervision is in  
41 the best interest of the child or the public. For children who  
42 have been adjudicated abused or neglected, except for those  
43 children for which a different timeframe is provided under Section  
44 43-21-603(7), the youth court shall conduct a permanency hearing  
45 within \* \* \* three (3) months \* \* \* after the earlier of the  
46 following and every three (3) months thereafter:

47                       (i) An adjudication that the child has been abused  
48 or neglected; or

49                       (ii) The date of the child's removal from the  
50 allegedly abusive or neglectful custodian/parent. Notice of such  
51 hearing shall be given in accordance with the provisions of  
52 Section 43-21-505(5). In conducting the hearing, the judge or  
53 referee shall require a written report and may require information  
54 or statements from the child's youth court counselor, parent,

55 guardian or custodian, which includes, but is not limited to, an  
56 evaluation of the child's progress and recommendations for further  
57 supervision or treatment. The judge or referee shall, at the  
58 permanency hearing determine the future status of the child,  
59 including, but not limited to, whether the child should be  
60 returned to the parent(s) or placed with suitable relatives,  
61 placed for adoption, placed for the purpose of establishing  
62 durable legal custody or should, because of the child's special  
63 needs or circumstances, be continued in foster care on a permanent  
64 or long-term basis. If the child is in an out-of-state placement,  
65 the hearing shall determine whether the out-of-state placement  
66 continues to be appropriate and in the best interest of the child.  
67 At the permanency hearing the judge or referee shall determine,  
68 and the youth court order shall recite that reasonable efforts  
69 were made by the Department of Child Protection Services to  
70 finalize the child's permanency plan that was in effect on the  
71 date of the permanency hearing. The judge or referee may find  
72 that reasonable efforts to maintain the child within his home  
73 shall not be required in accordance with Section 43-21-603(7)(c),  
74 and that the youth court shall continue to conduct permanency  
75 hearings for a child who has been adjudicated abused or neglected,  
76 at least annually thereafter, for as long as the child remains in  
77 the custody of the Mississippi Department of Child Protection  
78 Services.

79           (b) The court may find that the filing of a termination  
80 of parental rights petition is not in the child's best interest  
81 if:

82                   (i) The child is being cared for by a relative;  
83 and/or

84                   (ii) The Department of Child Protection Services  
85 has documented compelling and extraordinary reasons why  
86 termination of parental rights would not be in the best interests  
87 of the child.

88           (c) The provisions of this subsection shall also apply  
89 to review of cases involving a dependent child; however, such  
90 reviews shall take place not less frequently than once each one  
91 hundred eighty (180) days, or upon the request of the child's  
92 attorney, a parent's attorney, or a parent as deemed appropriate  
93 by the youth court in protecting the best interests of the child.  
94 A dependent child shall be ordered by the youth court judge or  
95 referee to be returned to the custody and home of the child's  
96 parent, guardian or custodian unless the judge or referee, upon  
97 such review, makes a written finding that the return of the child  
98 to the home would be contrary to the child's best interests.

99           (d) Reviews are not to be conducted unless explicitly  
100 ordered by the youth court concerning those cases in which the  
101 court has granted durable legal custody. In such cases, the  
102 Department of Child Protection Services shall be released from any  
103 oversight or monitoring responsibilities, and relieved of physical  
104 and legal custody and supervision of the child.

(4) The provisions of this section do not apply to proceedings concerning durable legal relative guardianship.

**SECTION 2.** Section 99-18-13, Mississippi Code of 1972, is amended as follows:

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

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

**SECTION 3.** Section 43-21-201, Mississippi Code of 1972, is amended as follows:

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

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

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

The guardian ad litem may serve a dual role as long as no conflict of interest is present. If a conflict of interest arises, the guardian ad litem shall inform the youth court of the conflict, and the youth court shall retain the guardian ad litem

to represent the best interest of the child and appoint an attorney to represent the child's preferences as required by Uniform Rule of Youth Court Practice 13(f).

(2) (a) When a party first appears before the youth court, the judge shall ascertain whether he is represented by counsel and, if not, inform him of his rights including his right to counsel. If the court determines that a custodial parent or guardian who is a party in an abuse, neglect or termination of parental rights proceeding is indigent, the youth court judge shall appoint counsel to represent the indigent parent or guardian in the proceeding. The court may appoint counsel to represent a noncustodial parent if the court determines that the noncustodial parent is indigent and has demonstrated a significant custodial relationship with the child. All parents have the right to be appointed counsel in termination of parental rights hearings, and the court shall appoint counsel if the court makes a finding that the parent is indigent and counsel is requested by the parent. For purposes of this section, indigency shall be determined pursuant to Section 25-32-9 and Rule 7.3 of the Mississippi Rules of Criminal Procedure.

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

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

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

(iv) Upon a determination of indigency and a finding by the court that the fund does not have sufficient funds 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 \* \* \* ten (10) 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.

233           (5) An attorney shall enter his appearance on behalf of a  
234 party in the proceeding by filing a written notice of appearance  
235 with the youth court, by filing a pleading, notice or motion  
236 signed by counsel or by appearing in open court and advising the  
237 youth court that he is representing a party. After counsel has  
238 entered his appearance, he shall be served with copies of all  
239 subsequent pleadings, motions and notices required to be served on  
240 the party he represents. An attorney who has entered his  
241 appearance shall not be permitted to withdraw from the case until  
242 a timely appeal, if any, has been decided, except by leave of the  
243 court then exercising jurisdiction of the cause after notice of  
244 his intended withdrawal is served by him on the party he  
245 represents.

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

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

254           (8) The Department of Child Protection Services shall have  
255 the right to hire agency counsel to represent the department and  
256 be represented by counsel from the Attorney General's Office at  
257 all stages of the proceedings involving a child for whom the  
258 department has custody of or may be awarded custody of, including,

259 but not limited to, detention shelter, adjudicatory disposition,  
260 permanency, termination of parental rights and adoption hearings.

261       **SECTION 4.** This act shall take effect and be in force from  
262 and after July 1, 2025.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1       AN ACT TO AMEND SECTION 43-21-613, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE TIMELINE FOR PERMANENCY HEARINGS IN YOUTH COURT FOR  
3 CHILDREN THAT HAVE BEEN ADJUDICATED ABUSED OR NEGLECTED; TO AMEND  
4 SECTION 99-18-13, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
5 OFFICE OF THE STATE PUBLIC DEFENDER TO REPRESENT YOUTH IN  
6 DELINQUENCY AND/OR CHILD IN NEED OF SUPERVISION PROCEEDINGS; TO  
7 AMEND SECTION 43-21-201, MISSISSIPPI CODE OF 1972, TO CLARIFY  
8 RESPONSIBILITY FOR TRAINING OF ATTORNEYS REPRESENTING CHILDREN; TO  
9 REVISE THE NUMBER OF CASES THAT ATTORNEYS APPOINTED BY A YOUTH  
10 COURT MUST HAVE IN ORDER TO BE EXEMPT FROM ANNUAL JUVENILE JUSTICE  
11 TRAINING; AND FOR RELATED PURPOSES.

HR31\SB2771A.J

Andrew Ketchings  
Clerk of the House of Representatives