

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.

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

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

109 99-18-13. (1) The State Defender is hereby empowered to pay
110 and disburse salaries, employment benefits and charges relating to
111 employment of division staff and to establish their salaries and
112 expenses of the office; to incur and pay travel expenses of staff
113 necessary for the performance of the duties of the office; to rent
114 or lease on such terms as he may think proper such office space as
115 is necessary in the City of Jackson to accommodate the staff; to
116 enter into and perform contracts and to purchase such necessary
117 office supplies and equipment as may be needed for the proper
118 administration of said offices within the funds appropriated for
119 such purpose; and to incur and pay such other expenses as are
120 appropriate and customary to the operation of the office.

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

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

130 43-21-201. (1) (a) Each party shall have the right to be
131 represented by counsel at all stages of the proceedings including,
132 but not limited to, detention, shelter, adjudicatory and
133 disposition hearings and parole or probation revocation
134 proceedings.

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

143 (c) A child who is alleged to have been abused or
144 neglected shall be deemed to be a party to the proceedings under
145 this chapter. The child shall be represented by an attorney at
146 all stages of any proceedings held pursuant to this chapter. The
147 court shall appoint an attorney to any child who is unrepresented.
148 Attorneys appointed under this paragraph must have received child
149 protection and juvenile justice training provided by or approved
150 by the Mississippi Judicial College consistent with Section
151 43-21-121(4).

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

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

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

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

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

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

190 (iv) Upon a determination of indigency and a
191 finding by the court that the fund does not have sufficient funds
192 to pay reasonable attorney's fees and expenses incurred at the
193 trial court level and that state funds have been exhausted, the
194 court may order the county to pay the reasonable fees and expenses
195 until the state provides funding for counsel.

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

206 (3) An attorney appointed to represent a child in
207 delinquency and/or children in need of supervision cases shall be

208 required to complete annual juvenile justice training that is
209 approved by the Mississippi Office of State Public Defender and
210 the Mississippi Commission on Continuing Legal Education. An
211 attorney appointed to represent a parent or guardian in an abuse,
212 neglect or termination of parental rights proceeding shall be
213 required to complete annual training that is approved by the
214 Office of State Public Defender and the Mississippi Commission on
215 Continuing Legal Education. The Mississippi Office of State
216 Public Defender and the Mississippi Commission on Continuing Legal
217 Education shall determine the amount of juvenile justice training
218 and continuing education required to fulfill the requirements of
219 this subsection. The State Public Defender shall maintain a roll
220 of attorneys who have complied with the training requirements and
221 shall enforce the provisions of this subsection. Should an
222 attorney fail to complete the annual training requirement or fail
223 to attend the required training within six (6) months of being
224 appointed to a youth court case, the attorney shall be
225 disqualified to serve, and the youth court shall immediately
226 terminate the representation and appoint another attorney.
227 Attorneys appointed by a youth court to * * * ten (10) or fewer
228 cases a year are exempt from the requirements of this subsection.

229 (4) Attorneys for all parties, including the child's
230 attorney, shall owe the duties of undivided loyalty,
231 confidentiality and competent representation to the party client
232 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