

By: Representative Moody

To: Judiciary A

HOUSE BILL NO. 1422

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE COURT SHALL REQUIRE CERTAIN REPORTS RELATIVE
3 TO THE FITNESS OF A PARENT OF A CHILD IN THE CUSTODY OF THE
4 DEPARTMENT OF HUMAN SERVICES PRIOR TO GRANTING OR DENYING AN
5 EXTENSION OF TIME FOR TERMINATION OF PARENTAL RIGHTS PROCEEDINGS;
6 AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 43-15-13, Mississippi Code of 1972, is
9 amended as follows:

10 43-15-13. (1) For purposes of this section, "children"
11 means persons found within the state who are under the age of
12 twenty-one (21) years, and who were placed in the custody of the
13 Department of Human Services by the youth court of the appropriate
14 county.

15 (2) The Department of Human Services shall establish a
16 foster care placement program for children whose custody lies with
17 the department, with the following objectives:

18 (a) Protecting and promoting the health, safety and
19 welfare of children;

20 (b) Preventing the unnecessary separation of children
21 from their families by identifying family problems, assisting
22 families in resolving their problems and preventing the breakup of
23 the family where the prevention of child removal is desirable and
24 possible when the child can be cared for at home without
25 endangering the child's health and safety;

26 (c) Remediating or assisting in the solution of problems
27 which may result in the neglect, abuse, exploitation or
28 delinquency of children;

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

33 (e) Placing children in suitable adoptive homes
34 approved by a licensed adoption agency or licensed social worker,
35 in cases where restoration to the biological family is not safe,
36 possible or appropriate;

37 (f) Assuring safe and adequate care of children away
38 from their homes, in cases where the child cannot be returned home
39 or cannot be placed for adoption. At the time of placement, the
40 department shall implement concurrent planning, as described in
41 subsection (8) of this section, so that permanency may occur at
42 the earliest opportunity. Consideration of possible failure or
43 delay of reunification should be given, to the end that the
44 placement made is the best available placement to provide
45 permanency for the child; and

46 (g) Providing a social worker or social work team for a
47 family and child throughout the implementation of their permanent
48 living arrangement plan. Wherever feasible, the same social
49 worker or social work team shall remain on the case until the
50 child is no longer under the jurisdiction of the youth court.

51 (3) The State Department of Human Services shall administer
52 a system of individualized plans and reviews once every six (6)
53 months for each child under its custody within the State of
54 Mississippi, each child who has been adjudged a neglected,
55 abandoned or abused child and whose custody was changed by court
56 order as a result of such adjudication, and each public or private
57 facility licensed by the department. The State Department of
58 Human Services administrative review shall be completed on each
59 child within the first three (3) months and a Foster Care Review
60 once every six (6) months after the child's initial forty-eight
61 (48) hours shelter hearing. Such system shall be for the purpose

62 of enhancing potential family life for the child by the
63 development of individual plans to return the child to its natural
64 parent or parents, or to refer the child to the appropriate court
65 for termination of parental rights and placement in a permanent
66 relative's home, adoptive home or foster/adoptive home. The goal
67 of the State Department of Human Services shall be to return the
68 child to its natural parent(s) or refer the child to the
69 appropriate court for termination of parental rights and placement
70 in a permanent relative's home, adoptive home or foster/adoptive
71 home within the time periods specified in this subsection or in
72 subsection (4) of this section. In furthering this goal, the
73 department shall establish policy and procedures designed to
74 appropriately place children in permanent homes, such policy to
75 include a system of reviews for all children in foster care, as
76 follows: foster care counselors in the department shall make all
77 possible contact with the child's natural parent(s) and any
78 interested relative for the first two (2) months following the
79 child's entry into the foster care system. For any child who was
80 in foster care before July 1, 1998, and has been in foster care
81 for fifteen (15) of the last twenty-two (22) months regardless of
82 whether the foster care was continuous for all of those twenty-two
83 (22) months, the department shall file a petition to terminate the
84 parental rights of the child's parents. The time period starts to
85 run from the date the court makes a finding of abuse and/or
86 neglect or sixty (60) days from when the child was removed from
87 his or her home, whichever is earlier. The department can choose
88 not to file a termination of parental rights petition if the
89 following apply:

- 90 (a) The child is being cared for by a relative; and/or
91 (b) The department has documented compelling and
92 extraordinary reasons why termination of parental rights would not
93 be in the best interests of the child. Prior to granting or
94 denying a request by the department for an extension of time for

filing a termination of parental rights action, the court shall
receive a verbal or written report on the progress which a parent
of such child has made in treatment, to be made to the court
verbally or in writing by a mental 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) or (d), 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 pursuant to 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 or long-term or formalized foster care by a court of competent jurisdiction.

(5) The Foster Care Review once every six (6) months shall be conducted by the youth court or its designee(s), and/or by personnel within the State Department of Human Services or by a

designee or designees of the department and may include others appointed by the department, and the review shall include at a minimum an evaluation of the child based on the following:

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

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

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

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

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

(f) Relevant testimony and recommendations from the foster parent of the child, the grandparents of the child, the guardian ad litem of the child, representatives of any private care agency which has cared for the child, the social worker 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 State Department of Human Services shall report to the Legislature as to the number of such children, the findings of the foster care review board and relevant statistical information in foster care in a semi-annual report to the Legislature to be submitted to the Joint Oversight Committee of

161 the Department of Human Services. The report shall not refer to
162 the specific name of any child in foster care.

163 (6) The State Department of Human Services, with the
164 cooperation and assistance of the State Department of Health,
165 shall develop and implement a training program for foster care
166 parents to indoctrinate them as to their proper responsibilities
167 upon a child's entry into their foster care. The program shall
168 provide a minimum of twelve (12) clock hours of training. The
169 foster care-training program shall be satisfactorily completed by
170 such foster care parents prior to or within ninety (90) days after
171 child placement with such parent. Record of such foster care
172 parent's training program participation shall be filed with the
173 court as part of a foster care child's review plan once every six
174 (6) months.

175 (7) When the Department of Human Services is considering
176 placement of a child in a foster home and when the department
177 deems it to be in the best interest of the child, the department
178 shall give first priority to placing the child in the home of one
179 (1) of the child's relatives within the third degree, as computed
180 by the civil law rule. In placing the child in a relative's home,
181 the department may waive any rule, regulation or policy applicable
182 to placement in foster care that would otherwise require the child
183 to have a separate bed or bedroom or have a bedroom of a certain
184 size, if placing the child in a relative's home would be in the
185 best interest of the child and such requirements cannot be met in
186 the relative's home.

187 (8) The Legislature recognizes that the best interests of
188 the child require that the child be placed in the most permanent
189 living arrangement as soon, as is practicably possible. To
190 achieve this goal, the Department of Human Services is directed to
191 conduct concurrent planning so that a permanent living arrangement
192 may occur at the earliest opportunity. Permanent living
193 arrangements may include prevention of placement of a child

194 outside the home of the family when the child can be cared for at
195 home without endangering the child's health or safety;
196 reunification with the family, when safe and appropriate, if
197 temporary placement is necessary; or movement of the child toward
198 the most permanent living arrangement and permanent legal status.
199 When a child is placed in foster care or relative care, the
200 department shall first ensure and document that reasonable efforts
201 were made to prevent or eliminate the need to remove the child
202 from the child's home. The department's first priority shall be
203 to make reasonable efforts to reunify the family when temporary
204 placement of the child occurs or shall request a finding from the
205 court that reasonable efforts are not appropriate or have been
206 unsuccessful. A decision to place a child in foster care or
207 relative care shall be made with consideration of the child's
208 health, safety and best interests. At the time of placement,
209 consideration should also be given so that if reunification fails
210 or is delayed, the placement made is the best available placement
211 to provide a permanent living arrangement for the child. The
212 department shall adopt rules addressing concurrent planning for
213 reunification and a permanent living arrangement. The department
214 shall consider the following factors when determining
215 appropriateness of concurrent planning:

- 216 (a) The likelihood of prompt reunification;
- 217 (b) The past history of the family;
- 218 (c) The barriers to reunification being addressed by
219 the family;
- 220 (d) The level of cooperation of the family;
- 221 (e) The foster parents' willingness to work with the
222 family to reunite;
- 223 (f) The willingness and ability of the foster family or
224 relative placement to provide an adoptive home or long-term
225 placement;
- 226 (g) The age of the child; and

227 (h) Placement of siblings.

228 (9) If the department has placed a child in foster care or
229 relative care pursuant to a court order, the department may not
230 change the child's placement unless the department specifically
231 documents to the court that the current placement is unsafe or
232 unsuitable or that another placement is in the child's best
233 interests unless the new placement is in an adoptive home or other
234 permanent placement. Except in emergency circumstances as
235 determined by the department or where the court orders placement
236 of the child pursuant to Section 43-21-303, the foster parents,
237 grandparents or other relatives of the child shall be given an
238 opportunity to contest the specific reasons documented by the
239 department at least seventy-two (72) hours prior to any such
240 departure, and the court may conduct a review of such placement
241 unless the new placement is in an adoptive home or other permanent
242 placement. When a child is returned to foster care or relative
243 care, the former foster parents or relative placement shall be
244 given the prior right of return placement in order to eliminate
245 additional trauma to the child.

246 (10) The Department of Human Services shall provide the
247 foster parents, grandparents or other relatives with at least a
248 seventy-two-hour notice of departure for any child placed in their
249 foster care or relative care, except in emergency circumstances as
250 determined by the department or where the court orders placement
251 of the child pursuant to Section 43-21-303. The parent/legal
252 guardian, grandparents of the child, guardian ad litem and the
253 court exercising jurisdiction shall be notified in writing when
254 the child leaves foster care or relative care placement,
255 regardless of whether the child's departure was planned or
256 unplanned. The only exceptions to giving a written notice to the
257 parent(s) are when a parent has voluntarily released the child for
258 adoption or the parent's legal rights to the child have been
259 terminated through the appropriate court with jurisdiction.

(11) The Department of Human Services shall extend the following rights to foster care parents:

(a) A clear understanding of their role as foster parents 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) Involvement in all the agency's crucial decisions regarding the foster child as team members who have pertinent information based on their day-to-day knowledge of the child in care;

(d) Support from the social worker 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) Pertinent information about the child and the birth family.

(ii) Help in using appropriate resources to meet the child's needs.

(iii) Direct interviews between the social worker and the child, previously discussed and understood by the foster parents.

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

(f) The opportunity to learn and grow in their vocation through planned foster parent education;

(g) The opportunity to be heard regarding agency practices that they may question; and

(h) Reimbursement for costs of the foster child's care in the form of a board payment based on the age of the foster child as prescribed in Section 43-15-17.

(12) The Department of Human Services shall require the following responsibilities from participating foster parents:

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

(b) Sharing with the department any information which may contribute to the care of foster children;

(c) Functioning within the established goals and objectives to improve the general welfare of the foster child;

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

(e) Recognizing that the foster family 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 view of agency practices which relate to the foster child with the appropriate staff member;

(g) Understanding that all information shared with the foster parents 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 foster 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 court in writing.

SECTION 2. This act shall take effect and be in force from and after July 1, 2001.