

By: Senator(s) Huggins

To: Public Health and
Welfare

SENATE BILL NO. 2363

1 AN ACT TO AMEND SECTION 43-21-613, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE YOUTH COURT TO ORDER ANNUAL PERMANENCY HEARINGS
3 FOR CHILDREN ADJUDICATED ABUSED OR NEGLECTED WHO REMAIN IN THE
4 CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 43-21-613, Mississippi Code of 1972, is
8 amended as follows:

9 43-21-613. (1) If the youth court finds, after a hearing
10 which complies with the sections governing adjudicatory hearings,
11 that the terms of a delinquency or child in need of supervision
12 disposition order, probation or parole have been violated, the
13 youth court may, in its discretion, revoke the original
14 disposition and make any disposition which it could have
15 originally ordered. The hearing shall be initiated by the filing
16 of a petition which complies with the sections governing petitions
17 in this chapter and which includes a statement of the youth
18 court's original disposition order, probation or parole, the
19 alleged violation of that order, probation or parole, and the
20 facts which show the violation of that order, probation or parole.
21 Summons shall be served in the same manner as summons for an
22 adjudicatory hearing.

23 (2) On motion of a child or a child's parent, guardian or
24 custodian, the youth court may, in its discretion, conduct an
25 informal hearing to review the disposition order. If the youth
26 court finds a material change of circumstances relating to the
27 disposition of the child, the youth court may modify the
28 disposition order to any appropriate disposition of equal or



29 greater precedence which the youth court could have originally
30 ordered.

31 (3) (a) Unless the youth court's jurisdiction has been
32 terminated, all disposition orders for supervision, probation or
33 placement of a child with an individual or an agency shall be
34 reviewed by the youth court judge or referee at least annually to
35 determine if continued placement, probation or supervision is in
36 the best interest of the child or the public. For children who
37 have been adjudicated abused or neglected, the youth court shall
38 conduct a permanency hearing within twelve (12) months after the
39 earlier of:

40 (i) An adjudication that the child has been abused
41 or neglected; or

42 (ii) Sixty (60) days from the child's removal from
43 the allegedly abusive or neglectful custodian/parent. Notice of
44 such hearing shall be given in accordance with the provisions of
45 Section 43-21-505(5). In conducting the hearing, the judge or
46 referee may require a written report, information or statements
47 from the child's youth court counselor, parent, guardian or
48 custodian which includes, but is not limited to, an evaluation of
49 the child's progress and recommendations for further supervision
50 or treatment. The judge or referee shall, at the permanency
51 hearing determine the future status of the child, including, but
52 not limited to, whether the child should be returned to the
53 parent(s) or placed with suitable relatives, placed for adoption,
54 placed for the purpose of establishing durable legal custody or
55 should, because of the child's special needs or circumstances, be
56 continued in foster care on a permanent or long-term basis. If
57 the child is in an out-of-state placement, the hearing shall
58 determine whether the out-of-state placement continues to be
59 appropriate and in the best interest of the child. The judge or
60 referee may find that reasonable efforts to maintain the child
61 within his home shall not be required in accordance with Section



43-21-603(7)(c), and that the youth court shall continue to conduct permanency hearings for children who have been adjudicated abused or neglected, at least annually thereafter, for as long as said child remains in the custody of the Mississippi Department of Human Services.

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

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

(ii) The State Department of Human Services has documented compelling and extraordinary reasons why termination of parental rights would not be in the best interests of the child.

(c) (i) In the event that the youth court either orders or continues the custody or supervision of a child to be placed with the Department of Human Services or any other person or public or private agency, other than the child's parent, guardian or custodian, unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), the youth court shall find and the order shall recite that the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that placement or continued placement of the child in foster care is in the best interest of the child, and that:

1. Reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or

2. The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody.



(ii) The youth court also shall find and the order shall recite that:

1. Reasonable efforts were made to reunify the child safely with his family if the removal could not be prevented; or

2. If reasonable efforts were not made to prevent the child's removal from home or to reunify the child with his family, that reasonable efforts are or were not required; or

3. If the permanent plan for the child is adoption, guardianship, or some other permanent living arrangement other than reunification, that reasonable efforts were made to make and finalize that alternate permanent placement.

(d) The provisions of this subsection shall also apply to review of cases involving a dependent child; however, such reviews shall take place not less frequently than once each one hundred eighty (180) days. A dependent child shall be ordered by the youth court judge or referee to be returned to the custody and home of the child's parent, guardian or custodian unless the judge or referee, upon such review, makes a written finding that the return of the child to the home would be contrary to the child's best interests.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.

