

By: Senator(s) Huggins

To: Public Health and
Welfare

SENATE BILL NO. 2363
(As Sent to Governor)

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; TO PROVIDE THAT A
5 JUDGE OR REFEREE SHALL REQUIRE A WRITTEN REPORT, INFORMATION OR
6 STATEMENTS FOR THE MODIFICATION OF DISPOSITION ORDERS FOR CHILDREN
7 WHO HAVE BEEN ABUSED OR NEGLECTED; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 43-21-613, Mississippi Code of 1972, is
10 amended as follows:

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

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



30 disposition order to any appropriate disposition of equal or
31 greater precedence which the youth court could have originally
32 ordered.

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

42 (i) An adjudication that the child has been abused
43 or neglected; or

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



63 the child within his home shall not be required in accordance with
64 Section 43-21-603(7)(c), and that the youth court shall continue
65 to conduct permanency hearings for children who have been
66 adjudicated abused or neglected, at least annually thereafter, for
67 as long as said child remains in the custody of the Mississippi
68 Department of Human Services.

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

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

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

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

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

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



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

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

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

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

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

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

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

