

By: Senator(s) Smith

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2569

1 AN ACT RELATING TO CHILDREN; TO ESTABLISH A MISSISSIPPI
2 DEPARTMENT OF CHILDREN'S AFFAIRS; TO CREATE AND EMPOWER A BOARD OF
3 CHILDREN'S AFFAIRS AND A JOINT LEGISLATIVE OVERSIGHT COMMITTEE; TO
4 CREATE THE POSITION OF EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
5 CHILDREN'S AFFAIRS AND PRESCRIBE HIS DUTIES AND RESPONSIBILITIES;
6 TO AMEND SECTION 43-27-2, MISSISSIPPI CODE OF 1972, AND TO CODIFY
7 SECTIONS 43-27-4 AND 43-27-6, MISSISSIPPI CODE OF 1972, TO
8 TRANSFER THE POWERS AND RESPONSIBILITIES OF THE DIVISION OF YOUTH
9 SERVICES OF THE DEPARTMENT OF HUMAN SERVICES TO THE NEWLY CREATED
10 MISSISSIPPI DEPARTMENT OF CHILDREN'S AFFAIRS; TO AMEND SECTIONS
11 43-27-8, 43-27-10, 43-27-11, 43-27-12, 43-27-14, 43-27-16,
12 43-27-17, 43-27-18, 43-27-19, 43-27-20, 43-27-22, 43-27-23,
13 43-27-25, 43-27-27, 43-27-29 AND 43-21-159, MISSISSIPPI CODE OF
14 1972, IN CONFORMITY THERETO; TO AMEND SECTIONS 43-1-1, 43-1-2,
15 43-1-3, 43-1-5, 43-1-6, 43-1-51 AND 43-1-53, MISSISSIPPI CODE OF
16 1972, TO TRANSFER THE POWERS AND RESPONSIBILITIES OF THE DIVISION
17 OF FAMILY AND CHILDREN'S SERVICES OF THE DEPARTMENT OF HUMAN
18 SERVICES TO THE NEWLY CREATED MISSISSIPPI DEPARTMENT OF CHILDREN'S
19 AFFAIRS, AND TO EXTEND THE AUTOMATIC REPEALER ON THE STATUTES
20 CREATING THE DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTIONS
21 43-16-3, 43-16-5, 43-16-7, 43-16-9, 43-16-21, 43-16-25, 43-20-5,
22 43-20-7, 43-20-11, 43-20-12, 43-20-13, 43-20-14, 43-20-53,
23 43-20-55, 43-20-57, 43-20-59, 43-20-61, 43-20-63, 43-20-65,
24 75-74-3, 75-74-7, 75-74-8, 75-74-9, 75-74-11, 75-74-17 AND
25 75-74-19, MISSISSIPPI CODE OF 1972, TO TRANSFER THE REGULATION OF
26 CHILD RESIDENTIAL HOMES, CHILD DAY CARE FACILITIES, FAMILY CHILD
27 CARE HOMES AND YOUTH CAMPS FROM THE STATE BOARD OF HEALTH TO THE
28 MISSISSIPPI DEPARTMENT OF CHILDREN'S AFFAIRS; TO AMEND SECTIONS
29 43-15-3, 43-15-5, 43-15-6, 43-15-7, 43-15-11, 43-15-13, 43-15-15,
30 43-15-17, 43-15-19, 43-15-23, 43-15-103, 43-15-105, 43-17-5,
31 43-18-5, 43-21-105, 43-21-257, 43-21-261, 43-21-315, 43-21-353,
32 43-21-354, 43-21-357, 43-21-405, 43-21-603, 43-21-605, 43-21-607,
33 43-21-609, 43-21-613, 43-21-623 AND 43-21-625, MISSISSIPPI CODE OF
34 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

36 **SECTION 1.** Section 43-27-2, Mississippi Code of 1972, is
37 amended as follows:

38 43-27-2. (1) From and after July 1, 2003, there is hereby
39 created the Mississippi Department of Children's Affairs, with
40 powers, duties and functions provided in this act.

41 (2) Through the Department of Children's Affairs, the State
42 of Mississippi government, in cooperation with youth courts, local
43 communities, schools and families will strive to provide timely,



44 appropriate and cost-effective services for children in state
45 custody and at risk of entering state custody so that these
46 children can reach their full potential as productive, competent
47 and healthy adults. The department is created to provide services
48 to those children who are unruly, delinquent, dependent and
49 neglected, and their respective families, as well as for children
50 who are at imminent risk and in need of services to prevent entry
51 into state custody, who are in state custody pending family
52 reunification or other permanent placement, or as otherwise may be
53 required for such children and their families pursuant to state
54 law. The focus of the services shall be to preserve the
55 relationship between the child and the family by providing,
56 whenever possible, services in the community where the child lives
57 and by providing the services in a setting which is the least
58 restrictive and, yet, the most beneficial. The department will
59 work to preserve the safety and protect the standards in
60 Mississippi communities through efforts to combat delinquency and
61 other social ills concerning young people. The department shall
62 work to continuously improve the management and coordination of
63 services for the children and families of Mississippi.

64 (3) Effective July 1, 2003, all employees of the agencies,
65 divisions, offices and programs whose functions are transferred
66 under this act shall be transferred to the Mississippi Department
67 of Children's Affairs. Administrative Divisions of the Department
68 of Human Services to be transferred include the following: (a)
69 the Division of Youth Services; (b) the Division of Family and
70 Children's Services; and (c) the Office for Children and Youth.
71 All such transfers shall be in accordance with the rules and
72 regulations of the State Personnel Board.

73 (4) Child care services and staff administered by the Office
74 of Children and Youth within the Mississippi Department of Human
75 Services, regardless of funding source, including federal Child
76 Care Development Block Grant funds, at-risk child care funds,



77 Child Care Partnership Grant programs and other training programs
78 and consumer education programs for parents, but not including
79 Temporary Assistance to Needy Families (TANF) child care funds,
80 shall be transferred to the Mississippi Department of Children's
81 Affairs on July 1, 2003.

82 (5) It is the intent of the Legislature that no employee
83 shall be dismissed as the result of the agency reorganization
84 required by this act, and that any reduction in the number of
85 persons employed by the state shall result from attrition of
86 employees and not dismissal.

87 (6) On July 1, 2003, all records, real and personal property
88 and unexpended balances of appropriations, allocations or other
89 funds of the agencies, divisions, offices and programs transferred
90 by this act shall be transferred to the Mississippi Department of
91 Children's Affairs.

92 (7) There is hereby created a Department of Human Services
93 Reorganization Study Committee for the purpose of assisting the
94 orderly transition for full implementation of this act. The
95 membership of the committee shall include the following: the
96 Executive Director of the Mississippi Department of Human
97 Services; the State Health Officer; the Executive Director of the
98 Mississippi Department of Mental Health; the Executive Director of
99 the Division of Medicaid; two (2) youth court judges appointed by
100 the Governor; two (2) representatives of child residential
101 facilities appointed by the Governor; the Chairman of the Senate
102 Public Health and Welfare Committee; the Chairman of the Senate
103 Appropriations Committee; three (3) members of the Senate
104 appointed by the Lieutenant Governor; the Chairman of the House
105 Public Health and Welfare Committee; the Chairman of the House
106 Appropriations Committee; and three (3) members of the House
107 appointed by the Speaker of the House. The Chairman of the Senate
108 Public Health and Welfare Committee and the Chairman of the House
109 Public Health and Welfare Committee shall serve as cochairmen of



110 the committee until July 1, 2003, at which time the Study
111 Committee shall be dissolved and the Joint Oversight Committee of
112 the Department of Children's Affairs shall assume its duties and
113 responsibilities. The Department of Human Services Reorganization
114 Study Committee shall, with the assistance of the Executive
115 Director of the Department of Human Services and the affected
116 division directors, develop and oversee the implementation of a
117 plan which will carry out the full effect of this act in an
118 orderly fashion. All agencies and divisions of agencies affected
119 by the transfer required under this act are hereby directed to
120 cooperate with the Department of Human Services Reorganization
121 Study Committee in formulating and implementing a transition plan
122 and program. The State Personnel Board and the Joint Committee on
123 Performance Evaluation and Expenditure Review (PEER) are directed
124 to assist the committee in carrying out its oversight
125 responsibilities. The Department of Human Services Reorganization
126 Study Committee shall receive reports on the following: (a) staff
127 to be transferred from one (1) state agency or division to another
128 in the implementation of new duties and responsibilities required
129 under this act; (b) operating budget revisions and interim
130 operating budgets as necessary for assuring an orderly transition
131 in implementing new duties and responsibilities required under
132 this act; (c) any additional cost or cost reduction resulting from
133 this transition; and (d) rules, regulations and procedures to be
134 adopted by agencies consistent with the intent of the transfer of
135 duties and responsibilities required under this act. The
136 Department of Human Services Reorganization Study Committee shall
137 develop and submit a report to the Governor and the Legislature on
138 or before December 1, 2003, on its findings which shall include
139 any recommendations for necessary legislation regarding the
140 reorganization of state agency responsibilities provided under
141 this act. The Department of Human Services Reorganization Study
142 Committee shall meet on the call of the cochairmen and shall adopt



143 rules for carrying out its responsibilities. Legislative members
144 of the committee shall receive compensation and expense
145 reimbursement from their respective contingent expense funds
146 authorized for attending committee meetings when the Legislature
147 is not in session. This subsection (7) shall stand repealed on
148 January 1, 2004.

149 **SECTION 2.** The following provision shall be codified as
150 Section 43-27-4, Mississippi Code of 1972:

151 43-27-4. (1) There shall be established a Board of
152 Children's Affairs composed of seven (7) members who are qualified
153 electors appointed by the Governor and the State Superintendent of
154 Education as an ex officio nonvoting member. The appointed
155 members shall be composed of one (1) person who is an active,
156 experienced educator; one (1) person who is an active licensed
157 psychiatrist or psychologist; one (1) person who is an active
158 member of the National Association of Social Workers; one (1)
159 person who is experienced in business; one (1) person who is a
160 practicing attorney; and two (2) persons who are concerned
161 citizens interested in the youth of the state. Provided, however,
162 there shall be at least one (1) member of said board from each of
163 the congressional districts of the State of Mississippi as
164 existing on July 1, 2003, and three (3) appointed at large, with
165 all appointments to be confirmed by the Senate. Terms of office
166 of the appointed members shall be as follows:

167 (a) The term of the member serving from the First
168 Congressional District shall expire on June 30, 2005.

169 (b) The term of the member serving from the Second
170 Congressional District shall expire on June 30, 2006.

171 (c) The term of the member serving from the Third
172 Congressional District shall expire on June 30, 2007.

173 (d) The term of the member serving from the Fourth
174 Congressional District shall expire on June 30, 2008.



175 (e) The term of the member serving from the Fifth
176 Congressional District shall expire on June 30, 2009.

177 (f) The terms of the three (3) members serving from the
178 state at large shall expire on June 30, 2006, and June 30, 2008,
179 respectively.

180 All subsequent appointments shall be for a term of six (6)
181 years.

182 The Governor shall have the power to fill any vacancy which
183 shall occur on said Board of Children's Affairs, provided that
184 said vacancy shall be filled in the manner in which a member is
185 selected for a full term, and that an appointment to fill such
186 vacancy shall be for the unexpired term only.

187 (2) The Board of Children's Affairs shall meet and organize
188 by electing one (1) of their number as chairman, whose term of
189 office shall be one (1) year or until his successor shall be
190 elected by the board and it shall transact such other business as
191 may come before the board. The board shall have authority to
192 elect any other officer from their number as they shall deem
193 necessary to perform their duties, the term of such officer to be
194 for one (1) year or until a successor shall be elected by the
195 trustees.

196 (3) The Board of Children's Affairs shall meet once each
197 month and such monthly meeting shall be known as a regular
198 meeting, and at such regular meeting any business allowed or
199 provided for by law may be transacted; and said Board of
200 Children's Affairs shall meet at any other time at the call of the
201 chairman, within his discretion, or at the request of three (3)
202 members of the board. In the case of a called meeting, the call
203 shall be in writing and shall be mailed by certified mail with
204 return receipt requested to each and every member at least five
205 (5) days prior to the date of such called meeting; at any such
206 called meeting only such business as may be specifically stated in
207 the notice thereof may be transacted. At any regular or called



208 meeting, three (3) members of the Board of Youth Services shall
209 constitute a quorum for the transaction of business. When any
210 member of the Board of Children's Affairs fails to attend three
211 (3) consecutive meetings, he shall be deemed to have automatically
212 vacated his term of office, unless the Governor shall elect to
213 retain said member, or the Governor may appoint another person in
214 his place and stead for the remainder of the unexpired term.

215 (4) The board members shall serve without salary or
216 compensation, but shall receive the per diem allowed public
217 employees under Section 25-3-69, Mississippi Code of 1972, for
218 meetings of said board, together with actual travel expenses
219 authorized by law. The expenses and per diem of the members of
220 the board shall be paid on an itemized statement, approved by the
221 chairman of the board, from funds appropriated to the Mississippi
222 Department of Children's Affairs.

223 (5) There shall be a Joint Oversight Committee of the
224 Department of Children's Affairs composed of the respective
225 Chairmen of the Senate Public Health and Welfare Committee, the
226 Senate Appropriations Committee, the House Public Health and
227 Welfare Committee and the House Appropriations Committee, two (2)
228 members of the Senate appointed by the Lieutenant Governor to
229 serve at the will and pleasure of the Lieutenant Governor, and two
230 (2) members of the House of Representatives appointed by the
231 Speaker of the House to serve at the will and pleasure of the
232 Speaker. The chairmanship of the committee shall alternate for
233 twelve-month periods between the Senate members and the House
234 members, with the Chairman of the House Public Health and Welfare
235 Committee serving as the first chairman. The committee shall meet
236 once each month, or upon the call of the chairman at such times as
237 he deems necessary or advisable, and may make recommendations to
238 the Legislature pertaining to any matter within the jurisdiction
239 of the Mississippi Department of Children's Affairs. The
240 appointing authorities may designate an alternate member from



241 their respective houses to serve when the regular designee is
242 unable to attend such meetings of the Oversight Committee. For
243 attending meetings of the Oversight Committee, such legislators
244 shall receive per diem and expenses which shall be paid from the
245 contingent expense funds of their respective houses in the same
246 amounts as provided for committee meetings when the Legislature is
247 not in session; however, no per diem and expenses for attending
248 meetings of the committee will be paid while the Legislature is in
249 session. No per diem and expenses will be paid except for
250 attending meetings of the Oversight Committee without prior
251 approval of the proper committee in their respective houses.

252 **SECTION 3.** The following provision shall be codified as
253 Section 43-27-6, Mississippi Code of 1972:

254 43-27-6. (1) The Board of Children's Affairs shall appoint
255 an Executive Director of the Mississippi Department of Children's
256 Affairs who shall be the chief executive, administrative and
257 fiscal officer of the department.

258 (2) The executive director shall receive an annual salary
259 fixed by the board, not to exceed the maximum authorized by law,
260 in addition to all actual, necessary expenses incurred in the
261 discharge of official duties, including mileage as authorized by
262 law.

263 (3) The executive director shall possess the following
264 minimum qualifications:

265 (a) A master's degree in social work, or some
266 closely-related field, and at least six (6) years' full-time
267 experience in social work, child services and/or juvenile justice;
268 or

269 (b) A bachelor's degree in a field described in
270 paragraph (a) of this subsection and at least ten (10) years'
271 full-time experience in social work, child services and/or
272 juvenile justice; or



273 (c) A law degree and at least five (5) years' full-time
274 experience in social work, child services and/or juvenile justice.

275 (4) The Executive Director of the Mississippi Department of
276 Children's Affairs, with the approval of the Board of Children's
277 Affairs, may assign to appropriate divisions such powers and
278 duties as deemed appropriate to carry out the functions of the
279 department, including, but not limited to:

280 (a) The Division of Youth Services; and

281 (b) The Division of Family and Children's Services.

282 **SECTION 4.** Section 43-27-8, Mississippi Code of 1972, is
283 amended as follows:

284 43-27-8. The Mississippi Department of Children's Affairs
285 shall administer the following duties and responsibilities:

286 (a) To implement and administer laws and policy
287 relating to youth services and coordinate the efforts of the
288 department with those of the federal government and other state
289 departments and agencies, county governments, municipal
290 governments and private agencies concerned with providing youth
291 services.

292 (b) To establish standards, provide technical
293 assistance and exercise the requisite supervision as it relates to
294 youth service programs over all state-supported juvenile
295 correctional facilities.

296 (c) To promulgate and publish such rules, regulations
297 and policies of the department as are needed for the efficient
298 government and maintenance of all facilities and programs in
299 accord, insofar as possible, with currently accepted standards of
300 juvenile care and treatment.

301 (d) To make an annual report to the Legislature
302 reflecting the activities of the department and make
303 recommendations for improvement of the services to be performed by
304 the department.



305 **SECTION 5.** Section 43-27-10, Mississippi Code of 1972, is
306 amended as follows:

307 43-27-10. (a) The Mississippi Department of Children's
308 Affairs shall exercise executive and administrative supervision
309 over all state-owned facilities used for the detention, training,
310 care, treatment and aftercare supervision of delinquent children
311 properly committed to or confined in said facilities by a court on
312 account of such delinquency; provided, however, such executive and
313 administrative supervision under state-owned facilities shall not
314 extend to any institutions and facilities for which executive and
315 administrative supervision has been provided otherwise by law
316 through other agencies.

317 (b) Such facilities shall include, but not be limited to,
318 the Columbia Training School created by Chapter 111, Laws of 1916,
319 and the Oakley Training School created by Chapter 205, Laws of
320 1942, and those facilities authorized by Laws, 1994, Chapter 652.

321 (c) The department shall have the power as a corporate body
322 to receive, hold and use personal, real and mixed property donated
323 to them or property acquired under Section 43-27-35, and shall
324 have such other corporate authority as shall now or hereafter be
325 necessary for the operation of any such facility. The department
326 shall be responsible for the planning, development and
327 coordination of a statewide, comprehensive youth services program
328 designed to train and rehabilitate children in order to prevent,
329 control and retard juvenile delinquency.

330 (d) The department is authorized to develop and implement
331 diversified programs and facilities to promote, enhance, provide
332 and assure the opportunities for the successful care, training and
333 treatment of delinquent children properly committed to or confined
334 in any facility under its control. Such programs and facilities
335 may include, but not be limited to, training schools, foster
336 homes, halfway houses, forestry camps, regional diagnostic



337 centers, detention centers and other state and local
338 community-based programs and facilities.

339 (e) The department is authorized to acquire whatever hazard,
340 casualty or workers' compensation insurance is necessary for any
341 property, real or personal, owned, leased or rented by the
342 department or for any employees or personnel hired by the
343 department and may acquire professional liability insurance on all
344 employees as deemed necessary and proper by the department. All
345 premiums due and payable on account thereof shall be paid out of
346 the funds of the department.

347 **SECTION 6.** Section 43-27-11, Mississippi Code of 1972, is
348 amended as follows:

349 43-27-11. The Mississippi Department of Children's Affairs
350 shall succeed to the exclusive control of all records, books,
351 papers, equipment and supplies, and all lands, buildings and other
352 real and personal property now or hereafter belonging to or
353 assigned to the use and benefit or under the control of the
354 Columbia Training School and the Oakley Training School, and shall
355 have the exercise and control of the use, distribution and
356 disbursement of all funds, appropriations and taxes now or
357 hereafter in possession, levied, collected or received or
358 appropriated for the use, benefit, support and maintenance of
359 these two (2) institutions, and the department shall have general
360 supervision of all the affairs of the two (2) institutions herein
361 named, and the care and conduct of all buildings and grounds,
362 business methods and arrangements of accounts and records, the
363 organization of the administrative plans of each institution, and
364 all other matters incident to the proper functioning of the
365 institutions. The department shall have full authority over the
366 operation of any and all farms at each of said institutions and
367 over the distribution of agricultural, dairy, livestock and any
368 and all other products therefrom and over all funds received from
369 the sale of hogs and livestock. All sums realized from the sale



370 of products manufactured and fabricated in the shops of the
371 vocational departments of such institutions shall be placed in the
372 revolving fund of the respective institutions in which said
373 products were manufactured, fabricated and sold.

374 The department shall be authorized to lease the lands for
375 oil, gas and mineral exploration, and for such other purposes as
376 the department deems to be appropriate, on such terms and
377 conditions as the department and lessee agree. The department may
378 contract with the State Forestry Commission for the proper
379 management of forest lands and the sale of timber, and the
380 department is expressly authorized to sell timber and forestry
381 products. The department is further authorized to expend the net
382 proceeds from incomes from all leases and timber sales exclusively
383 for the instructional purposes at the two (2) institutions under
384 its jurisdiction in proportion to the revenues derived from each
385 training school.

386 The granting of any leases for oil, gas and mineral
387 exploration shall be on a public bid basis as prescribed by law.

388 **SECTION 7.** Section 43-27-12, Mississippi Code of 1972, is
389 amended as follows:

390 43-27-12. The Mississippi Department of Children's Affairs
391 shall have exclusive supervisory care, custody and active control
392 of all children properly committed to or confined in its
393 facilities and included in its programs and shall have control of
394 the grounds, buildings and other facilities and properties of said
395 facilities and programs.

396 **SECTION 8.** Section 43-27-14, Mississippi Code of 1972, is
397 amended as follows:

398 43-27-14. The Mississippi Department of Children's Affairs
399 shall have the authority to accept any allotments of federal funds
400 and commodities and shall manage and dispose of them in whatever
401 manner may be required by federal law, and may take advantage of
402 any federal programs, grants-in-aid, or other public or private



403 assistance which may be offered or available which will accomplish
404 or further the objectives of the department. The Attorney General
405 shall be the legal representative of the department.

406 **SECTION 9.** Section 43-27-16, Mississippi Code of 1972, is
407 amended as follows:

408 43-27-16. The Mississippi Department of Children's Affairs
409 is authorized to request from any and all existing agencies,
410 departments, divisions, officers, employees, boards, bureaus,
411 commissions and institutions of the State of Mississippi, or any
412 political subdivision thereof, information, data and assistance as
413 will enable the department to fulfill its duties hereunder, and
414 all such agencies, departments, divisions, officers, employees,
415 boards, bureaus, commissions and institutions of the State of
416 Mississippi and its political subdivisions are hereby directed to
417 cooperate with the department and render such information, data,
418 aid and assistance as may be requested by the department.

419 **SECTION 10.** Section 43-27-17, Mississippi Code of 1972, is
420 amended as follows:

421 43-27-17. The Mississippi Department of Children's Affairs
422 shall use the services and resources of the state departments of
423 education and health, and of all other appropriate state
424 departments, agencies or institutions, as will aid in carrying out
425 the purposes of this chapter. It shall be the duty of all such
426 state departments, agencies and institutions to make available
427 such services and resources to the department.

428 **SECTION 11.** Section 43-27-18, Mississippi Code of 1972, is
429 amended as follows:

430 43-27-18. All positions in the Mississippi Department of
431 Children's Affairs shall be included in the state classification
432 system, but the department is encouraged to establish an incentive
433 program to motivate workers who deal directly with the children to
434 obtain master's degrees in the field of sociology, psychology or
435 some other related field.



436 **SECTION 12.** Section 43-27-19, Mississippi Code of 1972, is
437 amended as follows:

438 43-27-19. The Mississippi Department of Children's Affairs
439 shall keep in a suitable book a full and complete record of all of
440 its actions under this chapter, which shall be open at all times
441 to the inspection of the Governor and all persons whom he or
442 either house of the Legislature may designate, and any member of
443 the Legislature, to examine same.

444 **SECTION 13.** Section 43-27-20, Mississippi Code of 1972, is
445 amended as follows:

446 43-27-20. (a) Within the Mississippi Department of
447 Children's Affairs there shall be an Office of Community Services
448 which shall be headed by a director appointed by and responsible
449 to the Executive Director of the Mississippi Department of
450 Children's Affairs. He shall hold a master's degree in social
451 work or a related field and shall have no less than three (3)
452 years' experience in social services, or in lieu of such degree
453 and experience, he shall have a minimum of eight (8) years'
454 experience in social work or a related field. He shall employ and
455 assign the community workers to serve in the various areas in the
456 state and any other supporting personnel necessary to carry out
457 the duties of the Office of Community Services, subject to the
458 approval of the Executive Director of the Mississippi Department
459 of Children's Affairs.

460 (b) The Director of the Office of Community Services shall
461 assign probation and aftercare workers to the youth court or
462 family court judges of the various court districts upon the
463 request of the individual judge on the basis of caseload and need,
464 when funds are available. The probation and aftercare workers
465 shall live in their respective districts except upon approval of
466 the Director of the Office of Community Services. The Director of
467 the Office of Community Services is authorized to assign a youth
468 services counselor to a district other than the district in which



469 the youth services counselor lives upon the approval of the youth
470 court judge of the assigned district and the Executive Director of
471 the Mississippi Department of Children's Affairs. Every placement
472 shall be with the approval of the youth court or the family court
473 judge, and a probation and aftercare worker may be removed for
474 cause from a youth or family court district.

475 (c) Any counties or cities which, on July 1, 1973, have
476 court counselors or similar personnel may continue using this
477 personnel or may choose to come within the statewide framework.

478 (d) A probation and aftercare worker may be transferred by
479 the department from one (1) court to another after consultation
480 with the judge or judges in the court to which the employee is
481 currently assigned.

482 (e) The Office of Community Services shall have such duties
483 as the Mississippi Department of Children's Affairs shall assign
484 to it which shall include, but not be limited to, the following:

485 (1) Preparing the social, educational and home-life
486 history and other diagnostic reports on the child for the benefit
487 of the court or the training school; however, this provision shall
488 not abridge the power of the court to require similar services
489 from other agencies, according to law.

490 (2) Serving in counseling capacities with the youth or
491 family courts.

492 (3) Serving as probation agents for the youth or family
493 courts.

494 (4) Serving, advising and counseling of children in the
495 various institutions under the control of the Office of Juvenile
496 Correctional Institutions as may be necessary to the placement of
497 the children in proper environment after release and the placement
498 of children in suitable jobs where necessary and proper.

499 (5) Supervising and guiding of children released or
500 conditionally released from institutions under the control of the
501 Office of Juvenile Correctional Institutions.



502 (6) Counseling in an aftercare program.

503 (7) Coordinating the activities of supporting community
504 agencies which aid in the social adjustment of children released
505 from the institution and in an aftercare program.

506 (8) Providing or arranging for necessary services
507 leading to the rehabilitation of delinquents, either within the
508 division or through cooperative arrangements with other
509 appropriate agencies.

510 (9) Providing counseling and supervision for any child
511 under ten (10) years of age who has been brought to the attention
512 of the court when other suitable personnel is not available and
513 upon request of the court concerned.

514 (10) Supervising the aftercare program and making
515 revocation investigations at the request of the court.

516 (f) This section shall stand repealed on July 1, 2003.

517 **SECTION 14.** Section 43-27-22, Mississippi Code of 1972, is
518 amended as follows:

519 43-27-22. (1) Within the Mississippi Department of
520 Children's Affairs there shall be an Office of Juvenile
521 Correctional Institutions which shall be headed by a Director of
522 Juvenile Institutions, who shall be appointed by the Executive
523 Director of the Mississippi Department of Children's Affairs. The
524 Director of Juvenile Institutions shall appoint the individual
525 Department of Children's Affairs Institutional Administrators who,
526 in turn, shall have full power to select and employ personnel
527 necessary to operate the facility he directs, subject to the
528 approval of the Executive Director of the Mississippi Department
529 of Children's Affairs.

530 (2) The Office of Juvenile Correctional Institutions shall
531 have such duties as the Executive Director of the Mississippi
532 Department of Children's Affairs shall assign to it including, but
533 not limited to, the following:



534 (a) Operation and maintenance of training schools and
535 other facilities as may be needed to properly diagnose, care for,
536 train, educate and rehabilitate children and youths who have been
537 committed to or confined in the facilities or who are included in
538 the programs of the facilities.

539 (b) Fulfillment of the objectives of rehabilitation and
540 reformation of the youths confined in the schools, being careful
541 to employ no discipline, training or utilization of time and
542 efforts of such youth that shall under any condition or in any way
543 interfere with such objectives.

544 (c) Grouping of the youths in the schools according to
545 age, sex and disciplinary needs with respect to their housing,
546 schooling, training, recreation and work, being careful to prevent
547 injury to the morals or interference with the training and
548 rehabilitation of the younger or correctable youths by those
549 considered to be less amenable to discipline and rehabilitation.

550 **SECTION 15.** Section 43-27-23, Mississippi Code of 1972, is
551 amended as follows:

552 43-27-23. The superintendents of the Mississippi training
553 schools may each receive free lodging in his respective
554 institution for himself and his family, but not free board nor
555 free supplies from the institution. Upon each superintendent's
556 election to receive board for himself and family from the
557 institution, the Mississippi Department of Children's Affairs
558 shall enter on the minutes in advance the names and ages of the
559 members of the family and fix the charges for their board at the
560 average cost of table board in that community, but in no event at
561 an amount less than the cost of said board to said institution,
562 and said board so fixed shall be paid by the superintendent into
563 the State Treasury before his salary for the next succeeding month
564 shall be paid. The department shall make a detailed and itemized
565 statement thereof to the Legislature. The same restrictions shall
566 apply to all members of the clerical force of the institutions.



567 **SECTION 16.** Section 43-27-25, Mississippi Code of 1972, is
568 amended as follows:

569 43-27-25. No person shall be committed to an institution
570 under the control of the Mississippi Department of Children's
571 Affairs who is seriously handicapped by mental illness or
572 retardation. If after a person is referred to the training
573 schools it shall be determined that he is mentally ill or mentally
574 retarded to an extent that he could not be properly cared for in
575 its custody, the director may institute necessary legal action to
576 accomplish the transfer of such person to such other state
577 institution as, in his judgment, is best qualified to care for him
578 in accordance with the laws of this state. The department shall
579 establish standards with regard to the physical and mental health
580 of persons which it can accept for commitment.

581 **SECTION 17.** Section 43-27-27, Mississippi Code of 1972, is
582 amended as follows:

583 43-27-27. Any child committed to an institution under the
584 provisions of this chapter may be transferred by the Executive
585 Director of the Mississippi Department of Children's Affairs, in
586 his discretion, to any of the schools or other facilities under
587 his jurisdiction.

588 **SECTION 18.** Section 43-27-29, Mississippi Code of 1972, is
589 amended as follows:

590 43-27-29. Academic and vocational training at all
591 institutions under the Mississippi Department of Children's
592 Affairs shall meet standards prescribed by the State Department of
593 Education based upon standards required for public schools. The
594 department may prescribe such additional requirements as it may
595 from time to time deem necessary. The State Superintendent of
596 Education will administer the standards related to the high school
597 and elementary school programs. Reports from the State Department
598 of Education evaluating the educational program at all juvenile
599 correctional institutions and indicating whether or not the



600 program meets the standards as prescribed shall be made directly
601 to the Director of the Division of Juvenile Correctional
602 Institutions at regularly scheduled meetings. Such State
603 Department of Education supervisory personnel as deemed
604 appropriate shall be utilized for evaluating the programs and for
605 reporting to the director of said division.

606 **SECTION 19.** Section 43-21-159, Mississippi Code of 1972, is
607 amended as follows:

608 43-21-159. (1) When a person appears before a court other
609 than the youth court, and it is determined that the person is a
610 child under jurisdiction of the youth court, such court shall,
611 unless the jurisdiction of the offense has been transferred to
612 such court as provided in this chapter, or unless the child has
613 previously been the subject of a transfer from the youth court to
614 the circuit court for trial as an adult and was convicted,
615 immediately dismiss the proceeding without prejudice and forward
616 all documents pertaining to the cause to the youth court; and all
617 entries in permanent records shall be expunged. The youth court
618 shall have the power to order and supervise the expunction or the
619 destruction of such records in accordance with Section 43-21-265.
620 The youth court is authorized to expunge the record of any case
621 within its jurisdiction in which an arrest was made, the person
622 arrested was released and the case was dismissed or the charges
623 were dropped or there was no disposition of such case. In cases
624 where the child is charged with a hunting or fishing violation or
625 a traffic violation whether it be any state or federal law, a
626 violation of the Mississippi Implied Consent Law, or municipal
627 ordinance or county resolution or where the child is charged with
628 a violation of Section 67-3-70, the appropriate criminal court
629 shall proceed to dispose of the same in the same manner as for
630 other adult offenders and it shall not be necessary to transfer
631 the case to the youth court of the county. Unless the cause has
632 been transferred, or unless the child has previously been the



633 subject of a transfer from the youth court to the circuit court
634 for trial as an adult, except for violations under the Implied
635 Consent Law, and was convicted, the youth court shall have power
636 on its own motion to remove jurisdiction from any criminal court
637 of any offense including a hunting or fishing violation, a traffic
638 violation, or a violation of Section 67-3-70, committed by a child
639 in a matter under the jurisdiction of the youth court and proceed
640 therewith in accordance with the provisions of this chapter.

641 (2) After conviction and sentence of any child by any other
642 court having original jurisdiction on a misdemeanor charge, and
643 within the time allowed for an appeal of such conviction and
644 sentence, the youth court of the county shall have the full power
645 to stay the execution of the sentence and to release the child on
646 good behavior or on other order as the youth court may see fit to
647 make unless the child has previously been the subject of a
648 transfer from the youth court to the circuit court for trial as an
649 adult and was convicted. When a child is convicted of a
650 misdemeanor and is committed to, incarcerated in or imprisoned in
651 a jail or other place of detention by a criminal court having
652 proper jurisdiction of such charge, such court shall notify the
653 youth court judge or the judge's designee of the conviction and
654 sentence prior to the commencement of such incarceration. The
655 youth court shall have the power to order and supervise the
656 destruction of any records involving children maintained by the
657 criminal court in accordance with Section 43-21-265. However, the
658 youth court shall have the power to set aside a judgment of any
659 other court rendered in any matter over which the youth court has
660 exclusive original jurisdiction, to expunge or destroy the records
661 thereof in accordance with Section 43-21-265, and to order a
662 refund of fines and costs.

663 (3) Nothing in subsection (1) or (2) shall apply to a youth
664 who has a pending charge or a conviction for any crime over which
665 circuit court has original jurisdiction.



666 (4) In any case wherein the defendant is a child as defined
667 in this chapter and of which the circuit court has original
668 jurisdiction, the circuit judge, upon a finding that it would be
669 in the best interest of such child and in the interest of justice,
670 may at any stage of the proceedings prior to the attachment of
671 jeopardy transfer such proceedings to the youth court for further
672 proceedings unless the child has previously been the subject of a
673 transfer from the youth court to the circuit court for trial as an
674 adult and was convicted or has previously been convicted of a
675 crime which was in original circuit court jurisdiction, and the
676 youth court shall, upon acquiring jurisdiction, proceed as
677 provided in this chapter for the adjudication and disposition of
678 delinquent child proceeding proceedings. If the case is not
679 transferred to the youth court and the youth is convicted of a
680 crime by any circuit court, the trial judge shall sentence the
681 youth as though such youth was an adult. The circuit court shall
682 not have the authority to commit such child to the custody of the
683 Mississippi Department of Children's Affairs for placement in a
684 state-supported training school.

685 (5) In no event shall a court sentence an offender over the
686 age of eighteen (18) to the custody of the Mississippi Department
687 of Children's Affairs for placement in a state-supported training
688 school.

689 (6) When a child's driver's license is suspended by the
690 youth court for any reason, the clerk of the youth court shall
691 report the suspension, without a court order under Section
692 43-21-261, to the Commissioner of Public Safety in the same manner
693 as such suspensions are reported in cases involving adults.

694 (7) No offense involving the use or possession of a firearm
695 by a child who has reached his fifteenth birthday and which, if
696 committed by an adult would be a felony, shall be transferred to
697 the youth court.



698 **SECTION 20.** Section 43-1-1, Mississippi Code of 1972, is
699 amended as follows:

700 43-1-1. (1) The Department of Human Services shall be the
701 State Department of Public Welfare and shall retain all powers and
702 duties as granted to the State Department of Public Welfare.
703 Wherever the term "State Department of Public Welfare" or "State
704 Board of Public Welfare" appears in any law, the same shall mean
705 the Department of Human Services. The Executive Director of the
706 Department of Human Services may assign to the appropriate offices
707 such powers and duties deemed appropriate to carry out the lawful
708 functions of the department.

709 (2) This section shall stand repealed on July 1, 2005.

710 **SECTION 21.** Section 43-1-2, Mississippi Code of 1972, is
711 amended as follows:

712 43-1-2. (1) There is created the Mississippi Department of
713 Human Services, whose offices shall be located in Jackson,
714 Mississippi, and which shall be under the policy direction of the
715 Governor.

716 (2) The chief administrative officer of the department shall
717 be the Executive Director of Human Services. The Governor shall
718 appoint the Executive Director of Human Services with the advice
719 and consent of the Senate, and he shall serve at the will and
720 pleasure of the Governor, and until his successor is appointed and
721 qualified. The Executive Director of Human Services shall possess
722 the following qualifications:

723 (a) A bachelor's degree from an accredited institution
724 of higher learning and ten (10) years' experience in management,
725 public administration, finance or accounting; or

726 (b) A master's or doctoral degree from an accredited
727 institution of higher learning and five (5) years' experience in
728 management, public administration, finance or accounting.

729 Those qualifications shall be certified by the State
730 Personnel Board.



731 (3) There shall be a Joint Oversight Committee of the
732 Department of Human Services composed of the respective chairmen
733 of the Senate Public Health and Welfare Committee, the Senate
734 Appropriations Committee, the House Public Health and Welfare
735 Committee and the House Appropriations Committee, two (2) members
736 of the Senate appointed by the Lieutenant Governor to serve at the
737 will and pleasure of the Lieutenant Governor, and two (2) members
738 of the House of Representatives appointed by the Speaker of the
739 House to serve at the will and pleasure of the Speaker. The
740 chairmanship of the committee shall alternate for twelve-month
741 periods between the Senate members and the House members, with the
742 Chairman of the Senate Public Health and Welfare Committee serving
743 as the first chairman. The committee shall meet once each month,
744 or upon the call of the chairman at such times as he deems
745 necessary or advisable, and may make recommendations to the
746 Legislature pertaining to any matter within the jurisdiction of
747 the Mississippi Department of Human Services. The appointing
748 authorities may designate an alternate member from their
749 respective houses to serve when the regular designee is unable to
750 attend such meetings of the oversight committee. For attending
751 meetings of the oversight committee, such legislators shall
752 receive per diem and expenses which shall be paid from the
753 contingent expense funds of their respective houses in the same
754 amounts as provided for committee meetings when the Legislature is
755 not in session; however, no per diem and expenses for attending
756 meetings of the committee will be paid while the Legislature is in
757 session. No per diem and expenses will be paid except for
758 attending meetings of the oversight committee without prior
759 approval of the proper committee in their respective houses.

760 (4) The State Department of Human Services shall provide the
761 services authorized by law to every individual determined to be
762 eligible therefor, and in carrying out the purposes of the
763 department, the executive director is authorized:



764 (a) To formulate the policy of the department regarding
765 human services within the jurisdiction of the department;

766 (b) To adopt, modify, repeal and promulgate, after due
767 notice and hearing, and where not otherwise prohibited by federal
768 or state law, to make exceptions to and grant exemptions and
769 variances from, and to enforce rules and regulations implementing
770 or effectuating the powers and duties of the department under any
771 and all statutes within the department's jurisdiction, all of
772 which shall be binding upon the county departments of human
773 services;

774 (c) To apply for, receive and expend any federal or
775 state funds or contributions, gifts, devises, bequests or funds
776 from any other source;

777 (d) Except as limited by Section 43-1-3, to enter into
778 and execute contracts, grants and cooperative agreements with any
779 federal or state agency or subdivision thereof, or any public or
780 private institution located inside or outside the State of
781 Mississippi, or any person, corporation or association in
782 connection with carrying out the programs of the department; and

783 (e) To discharge such other duties, responsibilities
784 and powers as are necessary to implement the programs of the
785 department.

786 (5) The executive director shall establish the
787 organizational structure of the Mississippi Department of Human
788 Services which shall include the creation of any units necessary
789 to implement the duties assigned to the department and consistent
790 with specific requirements of law, including, but not limited to:

791 * * *

792 (a) Office of Economic Assistance;

793 (b) Office of Child Support.

794 (6) The Executive Director of Human Services shall appoint
795 heads of offices, bureaus and divisions, as defined in Section
796 7-17-11, who shall serve at the pleasure of the executive



797 director. The salary and compensation of such office, bureau and
798 division heads shall be subject to the rules and regulations
799 adopted and promulgated by the State Personnel Board as created
800 under Section 25-9-101 et seq. The executive director shall have
801 the authority to organize offices as deemed appropriate to carry
802 out the responsibilities of the department. The organization
803 charts of the department shall be presented annually with the
804 budget request of the Governor for review by the Legislature.

805 (7) This section shall stand repealed on July 1, 2005.

806 **SECTION 22.** Section 43-1-3, Mississippi Code of 1972, is
807 amended as follows:

808 43-1-3. Notwithstanding the authority granted under
809 subsection (4)(d) of Section 43-1-2, the Department of Human
810 Services or the Executive Director of Human Services shall not be
811 authorized to delegate, privatize or otherwise enter into a
812 contract with a private entity for the operation of any office,
813 bureau or division of the department, as defined in Section
814 7-17-11, without specific authority to do so by general act of the
815 Legislature. However, nothing in this section shall be construed
816 to invalidate (i) any contract of the department that is in place
817 and operational before January 1, 1994; or (ii) the continued
818 renewal of any such contract with the same entity upon the
819 expiration of the contract; or (iii) the execution of a contract
820 with another legal entity as a replacement of any such contract
821 that is expiring, provided that the replacement contract is
822 substantially the same as the expiring contract. Notwithstanding
823 any other provision of this section, the department shall be
824 authorized to continue the operation of its child support
825 collection program with a private entity on a pilot program basis
826 in Hinds and Warren Counties in Mississippi, and the department
827 and the private entity shall specifically be prohibited from
828 expanding such pilot program to any counties other than Hinds and
829 Warren Counties without specific authority to do so by amendment



830 to this section by general act of the Legislature. Before
831 December 15, 1994, the department shall provide a detailed report
832 to the Joint Oversight Committee established by Section 43-1-2 and
833 to the Legislature that describes the results of the pilot program
834 for the privatization of the department's child support collection
835 program as of December 1, 1994, including an evaluation of whether
836 there has been substantial compliance with the performance
837 standards specified in the contract for the private entity in
838 conducting the pilot program.

839 This section shall stand repealed on July 1, 2005.

840 **SECTION 23.** Section 43-1-5, Mississippi Code of 1972, is
841 amended as follows:

842 43-1-5. It shall be the duty of the Department of Human
843 Services to:

844 (1) Establish and maintain programs not inconsistent
845 with the terms of this chapter and the rules, regulations and
846 policies of the State Department of Human Services, and publish
847 the rules and regulations of the department pertaining to such
848 programs.

849 (2) Make such reports in such form and containing such
850 information as the federal government may, from time to time,
851 require, and comply with such provisions as the federal government
852 may, from time to time, find necessary to assure the correctness
853 and verification of such reports.

854 (3) Within ninety (90) days after the end of each
855 fiscal year, and at each regular session of the Legislature, make
856 and publish one (1) report to the Governor and to the Legislature,
857 showing for the period of time covered, in each county and for the
858 state as a whole:

859 (a) The total number of recipients;

860 (b) The total amount paid to them in cash;

861 (c) The maximum and the minimum amount paid to any
862 recipients in any one (1) month;



863 (d) The total number of applications;
864 (e) The number granted;
865 (f) The number denied;
866 (g) The number canceled;
867 (h) The amount expended for administration of the
868 provisions of this chapter;
869 (i) The amount of money received from the federal
870 government, if any;
871 (j) The amount of money received from recipients
872 of assistance and from their estates and the disposition of same;
873 (k) Such other information and recommendations as
874 the Governor may require or the department shall deem advisable;
875 (l) The number of state-owned automobiles
876 purchased and operated during the year by the department, the
877 number purchased and operated out of funds appropriated by the
878 Legislature, the number purchased and operated out of any other
879 public funds, the miles traveled per automobile, the total miles
880 traveled, the average cost per mile and depreciation estimate on
881 each automobile;
882 (m) The cost per mile and total number of miles
883 traveled by department employees in privately-owned automobiles,
884 for which reimbursement is made out of state funds;
885 (n) Each association, convention or meeting
886 attended by any department employees, the purposes thereof, the
887 names of the employees attending and the total cost to the state
888 of such convention, association or meeting;
889 (o) How the money appropriated to the institutions
890 under the jurisdiction of the department has been expended during
891 the preceding year, beginning and ending with the fiscal year of
892 each institution, exhibiting the salaries paid to officers and
893 employees of the institutions, and each and every item of receipt
894 and expenditure;



895 (p) The activities of each division within the
896 Department of Human Services and recommendations for improvement
897 of the services to be performed by each division;

898 (q) In order of authority, the twenty (20) highest
899 paid employees in the department receiving an annual salary in
900 excess of Forty Thousand Dollars (\$40,000.00), by P.I.N. number,
901 job title, job description and annual salary.

902 Each report shall be balanced and shall begin with the
903 balance at the end of the preceding fiscal year, and if any
904 property belonging to the state or the institution is used for
905 profit such report shall show the expenses incurred in managing
906 the property and the amount received from the same. Such reports
907 shall also show a summary of the gross receipts and gross
908 disbursements for each fiscal year and shall show the money on
909 hand at the beginning of the fiscal period of each division and
910 institution of the department.

911 This section shall stand repealed on July 1, 2005.

912 **SECTION 24.** Section 43-1-6, Mississippi Code of 1972, is
913 amended as follows:

914 43-1-6. The following programs within the Division of
915 Federal-State Programs, Office of the Governor, shall be
916 transferred to the State Department of Human Services:

- 917 (a) Office of Energy and Community Services;
918 (b) Juvenile Justice Advisory Committee; and
919 (c) Mississippi Council on Aging.

920 All authority to implement those programs shall be vested in
921 the State Department of Human Services.

922 This section shall stand repealed on July 1, 2005.

923 **SECTION 25.** Section 43-1-51, Mississippi Code of 1972, is
924 amended as follows:

925 43-1-51. There is hereby created within the Mississippi
926 Department of Children's Affairs a single and separate Division of
927 Family and Children's Services. The division shall be responsible



928 for the development, execution and provision of services in the
929 following areas: (a) protective services for children and adults;
930 (b) foster care; (c) adoption services; (d) special services; (e)
931 interstate compact; (f) licensure; and (g) such services as may be
932 designated by the board. Employees working within the division
933 shall be limited to work within the areas of service enumerated
934 herein. Services enumerated under Section 43-15-13 et seq., for
935 the foster care program shall be provided by qualified staff with
936 appropriate case loads.

937 **SECTION 26.** Section 43-1-53, Mississippi Code of 1972, is
938 amended as follows:

939 43-1-53. (1) The Division of Family and Children's Services
940 shall be formed at each level of the Mississippi Department of
941 Children's Affairs, including state, regional and county levels.
942 The Executive Director of the Mississippi Department of Children's
943 Affairs shall appoint and employ a director for the division who
944 shall have a master's degree in a field related to children's
945 services. In addition, he shall have no less than three (3)
946 years' experience in the field of service to children. In lieu of
947 such degree and experience, he shall have a minimum of ten (10)
948 years' actual experience in the field of children's services.

949 (2) The state office of the Division of Family and
950 Children's Services shall develop policy, provide training and
951 oversee the implementation of services. The director shall
952 establish such planning and policy councils as may be necessary to
953 carry out these functions.

954 (3) The regional office of the Division of Family and
955 Children's Services shall consist of a regional services director
956 and a crisis intervention team to be dispatched on a case-by-case
957 basis by the regional services director. From and after July 1,
958 1998, the Mississippi Department of Children's Affairs shall at a
959 minimum employ and assign to the Division of Family and Children's



960 Services two (2) additional regional services directors for
961 supervision of the foster care program.

962 (4) Area offices. Each region shall be divided into three
963 (3) areas, each of which shall have two (2) supervisors and direct
964 service workers deployed at the county level, but not limited in
965 jurisdiction to that county.

966 (5) Counties. The area supervisors shall assign service
967 workers so that every county has an appropriate access point for
968 all services.

969 **SECTION 27.** Section 43-16-3, Mississippi Code of 1972, is
970 amended as follows:

971 43-16-3. As used in this chapter, the following definitions
972 shall apply unless the context clearly provides otherwise:

973 (a) "Child" means a person who has not reached the age
974 of eighteen (18) years or who has not otherwise been legally
975 emancipated.

976 (b) "Child residential home" means any place, facility
977 or home operated by any person which receives children who are not
978 related to the operators and whose parents or guardians are not
979 residents of the same facility for supervision, care, lodging and
980 maintenance for twenty-four (24) hours a day, with or without
981 transfer of custody. This term shall not include residential
982 homes which are licensed by the Mississippi Department of
983 Children's Affairs under the provisions of Section 43-15-5,
984 Mississippi Code of 1972, and shall not include any public school
985 or any such home operated by a state agency, nor shall it include
986 child care facilities as defined in Section 43-20-5, Mississippi
987 Code of 1972, youth camps as defined in Section 75-74-3,
988 Mississippi Code of 1972, or health care facilities licensed by
989 the State Department of Health.

990 (c) "Department" shall mean the Mississippi Department
991 of Children's Affairs.



992 (d) "Person" shall include an individual, partnership,
993 organization, association or corporation.

994 **SECTION 28.** Section 43-16-5, Mississippi Code of 1972, is
995 amended as follows:

996 43-16-5. The Mississippi Department of Children's Affairs
997 shall be the notification agency for all child residential homes,
998 and the department shall discharge as additional duties and
999 responsibilities the provisions of this chapter.

1000 **SECTION 29.** Section 43-16-7, Mississippi Code of 1972, is
1001 amended as follows:

1002 43-16-7. (1) The operator of any child residential home
1003 shall provide notification in accordance with this chapter within
1004 sixty (60) days of beginning operation.

1005 (2) All child residential homes operating on July 1, 1989,
1006 shall either apply for a license from the Mississippi Department
1007 of Children's Affairs pursuant to Section 43-15-5, Mississippi
1008 Code of 1972, or file notification in accordance with this
1009 chapter, prior to August 1, 1989.

1010 **SECTION 30.** Section 43-16-9, Mississippi Code of 1972, is
1011 amended as follows:

1012 43-16-9. Such notification shall be filed by the executive
1013 director of the child residential home to the department upon
1014 forms provided by the department and shall contain the following
1015 information:

1016 (a) Name, street address, mailing address and phone
1017 number of the home.

1018 (b) Name of the executive director and all staff
1019 members of the home.

1020 (c) Name and description of the agency or organization
1021 operating the home, which shall include a statement as to whether
1022 or not the agency or organization is incorporated.

1023 (d) Name and address of the sponsoring organization of
1024 the home, if applicable.



1025 (e) The names of all children living at the home which
1026 shall include the following personal data:

1027 (i) Full name and a copy of the child's birth
1028 certificate;

1029 (ii) Name and address of parent(s) or guardian(s);
1030 and

1031 (iii) Name and address of other nearest relative.

1032 (f) School(s) attended by the children served by such
1033 home.

1034 (g) Fire department or State Fire Marshal inspection
1035 certificate.

1036 (h) Local health department inspection certificate or
1037 permit from the Mississippi Department of Environmental Quality
1038 for private water supplies, individual on-site wastewater disposal
1039 systems and other environmental services, as applicable.

1040 (i) Proof, to be shown by the sworn affidavit of the
1041 executive director of the home, that the home has performed (i)
1042 criminal record background checks, and (ii) felony conviction
1043 record information checks on all employees, prospective employees,
1044 volunteers and prospective volunteers at such home, and that such
1045 records are maintained to the extent permitted by law, for every
1046 such employee, prospective employee, volunteer and prospective
1047 volunteer.

1048 (j) Proof, to be shown by the sworn affidavit of the
1049 executive director of the home, that medical records are
1050 maintained for each child.

1051 **SECTION 31.** Section 43-16-21, Mississippi Code of 1972, is
1052 amended as follows:

1053 43-16-21. Notwithstanding the existence of any other remedy,
1054 the department may, in the manner provided by law, in termtime or
1055 in vacation, upon the advice of the Attorney General who shall
1056 represent the department in the proceedings, maintain an action in
1057 the name of the state for an injunction or restraining order to



1058 cease the operation of the home, and to provide for the
1059 appropriate removal of the children from the home and placement in
1060 the custody of the parents or legal guardians, the Mississippi
1061 Department of Children's Affairs, or any other appropriate entity
1062 in the discretion of the court. Such action shall be brought in
1063 the chancery court or the youth court, as appropriate, of the
1064 county in which such child residential home is located, and shall
1065 only be initiated for the following violations:

1066 (a) Providing supervision, care, lodging or maintenance
1067 for any children in such home without filing notification in
1068 accordance with this chapter.

1069 (b) Failure to satisfactorily comply with local health
1070 department or State Fire Marshal inspections made pursuant to
1071 Section 43-16-15, regarding the health, nutrition, cleanliness,
1072 safety, sanitation, written records and discipline policy of such
1073 home.

1074 (c) Suspected abuse and/or neglect of the children
1075 served by such home, as defined in Section 43-21-105, Mississippi
1076 Code of 1972.

1077 **SECTION 32.** Section 43-16-25, Mississippi Code of 1972, is
1078 amended as follows:

1079 43-16-25. A license issued under the provisions of this
1080 chapter shall be renewed annually upon payment of a renewal fee
1081 not to exceed One Hundred Dollars (\$100.00) and upon filing by the
1082 licensee of an annual report upon such uniform dates and upon
1083 forms provided by the licensing agency, accompanied by a current
1084 certificate of inspection and approval by the fire department and
1085 the county health department specified in Section 43-16-11, if
1086 applicable.

1087 No governmental entity or agency shall be required to pay the
1088 fee or fees set forth in this section.

1089 **SECTION 33.** Section 43-20-5, Mississippi Code of 1972, is
1090 amended as follows:



1091 43-20-5. When used in this chapter, the following words
1092 shall have the following meanings:

1093 (a) "Child care facility" means a place which provides
1094 shelter and personal care for six (6) or more children who are not
1095 related within the third degree computed according to the civil
1096 law to the operator and who are under thirteen (13) years of age,
1097 for any part of the twenty-four-hour day, whether such place be
1098 organized or operated for profit or not. The term "child care
1099 facility" includes day nurseries, day care centers and any other
1100 facility that falls within the scope of the definitions set forth
1101 above, regardless of auspices. Exemptions from the provisions of
1102 this chapter include:

1103 (i) Child care facilities which operate for no
1104 more than two (2) days a week, whose primary purpose is to provide
1105 respite for the caregiver or temporary care during other scheduled
1106 or related activities and organized programs which operate for
1107 three (3) or less weeks per year such as, but not limited to,
1108 vacation bible schools and scout day camps.

1109 (ii) Any child residential home as defined in, and
1110 in compliance with the provisions of, Section 43-16-3(b) et seq.

1111 (iii) 1. Any elementary, including kindergarten,
1112 and/or secondary school system, accredited by the Mississippi
1113 State Department of Education, the Southern Association of
1114 Colleges and Schools, the Mississippi Private School Education
1115 Association, the American Association of Christian Schools, the
1116 Association of Christian Schools International, and any Head Start
1117 program operating in conjunction with an elementary school system,
1118 whether it be public, private or parochial, whose primary purpose
1119 is a structured school or school readiness program.

1120 2. Accreditation, for the purpose of
1121 exemption from the provisions of this chapter, means: a. receipt
1122 by any school or school system of full accreditation from an
1123 accrediting entity listed in item 1 of this subparagraph (iii), or



1124 b. proof of application by the school or school system for
1125 accreditation status from the accrediting entity. Proof of
1126 application for accreditation status shall include, but not be
1127 limited to, a copy of the applicant's completed application for
1128 accreditation filed with the licensing agency and a letter or
1129 other authenticating documentation from a signatory authority with
1130 the accrediting entity that the application for accreditation has
1131 been received and that the applicant is currently under
1132 consideration or review for full accreditation status by the
1133 accrediting entity. An exemption for a nonaccredited applicant
1134 under this item 2 shall be for a maximum of one (1) year from the
1135 receipt date by the licensing agency of the completed
1136 documentation for proof of application for accreditation status.
1137 Failure to receive full accreditation by the end of the one-year
1138 exemption period for a nonaccredited applicant shall result in the
1139 nonaccredited applicant no longer remaining exempt from the
1140 provisions of this chapter at the end of the one-year period.
1141 However, if full accreditation is not received by the end of the
1142 one-year exemption period, the State Board of Health, in its
1143 discretion, may extend the exemption period for any nonaccredited
1144 applicant for periods of six (6) months, with the total extension
1145 not to exceed one (1) year. During any such extension periods,
1146 the board shall have the authority to enforce child care facility
1147 licensure provisions relating to the health and safety of the
1148 children in the school or school system. If a nonaccredited
1149 applicant fails to receive full accreditation by the end of all
1150 extended exemption periods, the applicant shall no longer remain
1151 exempt from the provisions of this chapter at the end of the
1152 extended exemption periods. This item 2 shall stand repealed on
1153 July 1, 2003.

1154 (iv) Any membership organization affiliated with a
1155 national organization which charges only a nominal annual
1156 membership fee, does not receive monthly, weekly or daily payments



1157 for services, and is certified by its national association as
1158 being in compliance with the association's minimum standards and
1159 procedures, including, but not limited to, the Boys and Girls Club
1160 of America, and the YMCA.

1161 (v) Any family child care home as defined in
1162 Section 43-20-53(a) et seq.

1163 All other preschool child care programs and/or extended day
1164 school programs must meet requirements set forth in this chapter.

1165 (b) "Health" means that condition of being sound in
1166 mind and body and encompasses an individual's physical, mental and
1167 emotional welfare.

1168 (c) "Safety" means that condition of being protected
1169 from hurt, injury or loss.

1170 (d) "Person" means any person, firm, partnership,
1171 corporation or association.

1172 (e) "Operator" means any person, acting individually or
1173 jointly with another person or persons, who shall establish, own,
1174 operate, conduct or maintain a child care facility. The child
1175 care facility license shall be issued in the name of the operator,
1176 or, if there is more than one (1) operator, in the name of one (1)
1177 of the operators. If there is more than one (1) operator, all
1178 statutory and regulatory provisions concerning the background
1179 checks of operators shall be equally applied to all operators of a
1180 facility, including, but not limited to, a spouse who jointly
1181 owns, operates or maintains the child care facility regardless of
1182 which particular person is named on the license.

1183 (f) "Personal care" means assistance rendered by
1184 personnel of the child care facility in performing one or more of
1185 the activities of daily living, which includes, but is not limited
1186 to, the feeding, personal grooming, supervising and dressing of
1187 children placed in the child care facility.

1188 (g) "Licensing agency" means the Mississippi Department
1189 of Children's Affairs.



1190 (h) "Caregiver" means any person who provides direct
1191 care, supervision or guidance to children in a child care
1192 facility, regardless of title or occupation.

1193 **SECTION 34.** Section 43-20-7, Mississippi Code of 1972, is
1194 amended as follows:

1195 43-20-7. (1) There is hereby created an advisory council
1196 which shall be appointed by the Executive Director of the
1197 Mississippi Department of Children's Affairs, who shall serve at
1198 the pleasure of the Mississippi Department of Children's Affairs.

1199 (2) The advisory council shall consist of eleven (11)
1200 persons, five (5) of whom shall be licensed child care providers,
1201 and six (6) of whom shall represent child care professional
1202 organizations, child advocacy groups, and/or state agencies which
1203 provide child care funding or services. No more than four (4)
1204 members shall be appointed from any one (1) state Supreme Court
1205 district.

1206 (3) It shall be the duty of the advisory council to assist
1207 and advise the licensing agency in the development of regulations
1208 governing the licensure and regulation of child care facilities.

1209 (4) Members of the advisory council shall be reimbursed for
1210 mileage and expenses as is authorized by law.

1211 **SECTION 35.** Section 43-20-11, Mississippi Code of 1972, is
1212 amended as follows:

1213 43-20-11. An application for a license under this chapter
1214 shall be made to the licensing agency upon forms provided by it,
1215 and shall contain such information as the licensing agency may
1216 reasonably require. Each application for a license shall be
1217 accompanied by a license fee not to exceed Two Hundred Dollars
1218 (\$200.00), which shall be paid to the licensing agency. Licenses
1219 shall be granted to applicants upon the filing of properly
1220 completed application forms, accompanied by payment of the said
1221 license fee, and a certificate of inspection and approval by the
1222 fire department of the municipality or other political subdivision



1223 in which the facility is located, and by a certificate of
1224 inspection and approval by the health department of the county in
1225 which the facility is located, and approval by the licensing
1226 agency; except that if no fire department exists where the
1227 facility is located, the State Fire Marshal shall certify as to
1228 the inspection for safety from fire hazards. Said fire, county
1229 health department and licensing agency inspections and approvals
1230 shall be based upon regulations promulgated by the licensing
1231 agency as approved by the Mississippi Department of Children's
1232 Affairs.

1233 Each license shall be issued only for the premises and person
1234 or persons named in the application and shall not be transferable
1235 or assignable except with the written approval of the licensing
1236 agency. Licenses shall be posted in a conspicuous place on the
1237 licensed premises.

1238 No governmental entity or agency shall be required to pay the
1239 fee or fees set forth in this section.

1240 **SECTION 36.** Section 43-20-12, Mississippi Code of 1972, is
1241 amended as follows:

1242 43-20-12. All fees collected by the licensing agency under
1243 this chapter and any penalties collected by the licensing agency
1244 for violations of this chapter shall be deposited in a special
1245 fund hereby created in the State Treasury and shall be used for
1246 the implementation and administration of this chapter when
1247 appropriated by the Legislature for such purpose.

1248 **SECTION 37.** Section 43-20-13, Mississippi Code of 1972, is
1249 amended as follows:

1250 43-20-13. A license issued under the provisions of this
1251 chapter shall be renewed upon payment of a renewal fee not to
1252 exceed Two Hundred Dollars (\$200.00) per year and upon filing by
1253 the licensee of a report upon such uniform dates and upon forms
1254 provided by the licensing agency, accompanied by a current
1255 certificate of inspection and approval by the fire department and



1256 the county health department specified in Section 43-20-11, if
1257 applicable.

1258 No governmental entity or agency shall be required to pay the
1259 fee or fees set forth in this section.

1260 **SECTION 38.** Section 43-20-14, Mississippi Code of 1972, is
1261 amended as follows:

1262 43-20-14. (1) The licensing agency may deny a license or
1263 refuse to renew a license for any of the reasons set forth in
1264 subsection (3) of this section.

1265 (2) Before the licensing agency may deny or refuse to renew,
1266 the applicant or person named on the license shall be entitled to
1267 a hearing in order to show cause why the license should not be
1268 denied or should be renewed.

1269 (3) The licensing agency may suspend, revoke or restrict the
1270 license of any child care facility upon one or more of the
1271 following grounds:

1272 (a) Fraud, misrepresentation or concealment of material
1273 facts;

1274 (b) Conviction of an operator for any crime if the
1275 licensing agency finds that the act or acts for which the operator
1276 was convicted could have a detrimental effect on children cared
1277 for by any child care facility;

1278 (c) Violation of any of the provisions of this act or
1279 of the regulations governing the licensing and regulation of child
1280 care facilities promulgated by the licensing agency;

1281 (d) Any conduct, or failure to act, which is found or
1282 determined by the licensing agency to threaten the health or
1283 safety of children at the facility;

1284 (e) Failure by the child care facility to comply with
1285 the provisions of Section 43-20-8(3), Mississippi Code of 1972,
1286 regarding background checks of caregivers or with Section
1287 45-31-12, Mississippi Code of 1972, concerning employment of



1288 persons who have been convicted of certain offenses or have had
1289 certain actions taken against them in court; and

1290 (f) Information received by the licensing agency as a
1291 result of the felony conviction records check, the sex offense
1292 criminal records check and the child abuse registry check on any
1293 and all operators pursuant to Section 43-20-8, Mississippi Code of
1294 1972.

1295 (4) Before the licensing agency may suspend, revoke or
1296 restrict the license of any facility, any licensee affected by
1297 such decision of the licensing agency shall be entitled to a
1298 hearing in which the licensee may show cause why the license
1299 should not be suspended, revoked or restricted.

1300 (5) Any licensee who disagrees with or is aggrieved by a
1301 decision of the licensing agency in regard to the denial, refusal
1302 to renew, suspension, revocation or restriction of such license,
1303 may appeal to the chancery court of the county in which such
1304 facility is located. Such appeal shall be filed no later than
1305 thirty (30) days after the licensee receives written notice of the
1306 final administrative action by the licensing agency as to the
1307 suspension, revocation or restriction of the license of such
1308 licensee.

1309 **SECTION 39.** Section 43-20-53, Mississippi Code of 1972, is
1310 amended as follows:

1311 43-20-53. As used in Sections 43-20-51 through 43-20-65:

1312 (a) "Family child care home" means any residential
1313 facility occupied by the operator where five (5) or fewer children
1314 who are not related within the third degree computed according to
1315 the civil law to the provider and who are under the age of
1316 thirteen (13) years of age are provided care for any part of the
1317 twenty-four-hour day.

1318 (b) "Registering agency" means the Mississippi
1319 Department of Children's Affairs.



1320 (c) "Provider" means the person responsible for the
1321 care of children.

1322 **SECTION 40.** Section 43-20-55, Mississippi Code of 1972, is
1323 amended as follows:

1324 43-20-55. The advisory council appointed by the Executive
1325 Director of the Mississippi Department of Children's Affairs under
1326 the provisions of Section 43-20-7, Mississippi Code of 1972, shall
1327 assist and advise in the development of regulations and standards
1328 governing the registration and regulation of family child care
1329 homes. Members of the council who are not public employees shall
1330 receive per diem compensation as provided under Section 25-3-69,
1331 Mississippi Code of 1972, and shall be reimbursed for mileage and
1332 expenses.

1333 **SECTION 41.** Section 43-20-57, Mississippi Code of 1972, is
1334 amended as follows:

1335 43-20-57. (1) No person shall knowingly maintain a family
1336 child care home if, in such family child care home, there resides,
1337 works or regularly volunteers any person who:

1338 (a) (i) Has a felony conviction for a crime against
1339 persons;

1340 (ii) Has a felony conviction under the Uniform
1341 Controlled Substances Act;

1342 (iii) Has a conviction for a crime of child abuse
1343 or neglect;

1344 (iv) Has a conviction for any sex offense as
1345 defined in Section 45-33-23, Mississippi Code of 1972; or

1346 (v) Any other offense committed in another
1347 jurisdiction or any federal offense which, if committed in this
1348 state, would be deemed to be such a crime without regard to its
1349 designation elsewhere;

1350 (b) Has been adjudicated a juvenile offender because of
1351 having committed an act which if done by an adult would constitute
1352 the commission of a felony and which is a crime against persons;



1353 (c) Has had a child declared in a court order in this
1354 or any other state to be deprived or a child in need of care based
1355 on an allegation of physical, mental or emotional abuse or neglect
1356 or sexual abuse;

1357 (d) Has had parental rights terminated pursuant to
1358 Section 93-15-101 et seq., Mississippi Code of 1972; or

1359 (e) Has an infectious or contagious disease, as defined
1360 by the State Department of Health pursuant to Section 41-23-1,
1361 Mississippi Code of 1972.

1362 (2) No person shall maintain a family child care home if
1363 such person has been found to be a disabled person in need of a
1364 guardian or conservator, or both.

1365 (3) Any person who resides in the home and who has been
1366 found to be a disabled person in need of a guardian or
1367 conservator, or both, shall be included in the total number of
1368 children allowed in care.

1369 (4) In accordance with the provision of this subsection (4),
1370 the registering agency shall have access to any court orders or
1371 adjudications of any court of record, any records of such orders
1372 or adjudications, criminal history record information in the
1373 possession of the Mississippi Department of Public Safety or court
1374 of this state concerning persons working, regularly volunteering
1375 or residing in a family child care home. The department shall
1376 have access to these records for the purpose of determining
1377 whether or not the home meets the requirements of Sections
1378 43-20-51 through 43-20-65.

1379 (5) No family child care home or its employees shall be
1380 liable for civil damages to any person refused employment or
1381 discharged from employment by reason of such home's compliance
1382 with the provisions of this section if such home acts in good
1383 faith to comply with this section.

1384 **SECTION 42.** Section 43-20-59, Mississippi Code of 1972, is
1385 amended as follows:



1386 43-20-59. (1) Any person maintaining a family child care
1387 home may register such home with the registering agency on forms
1388 provided by it.

1389 (2) A certificate of registration shall be issued to the
1390 applicant for registration who (a) attests to the safety of the
1391 home for the care of children, (b) submits a fee of Five Dollars
1392 (\$5.00) payable to the registering agency, and (c) certifies that
1393 no person described in paragraph (a), (b), (c), (d) or (e) of
1394 Section 43-20-57(1) resides, works or volunteers in the family
1395 child care home.

1396 (3) The registering agency shall furnish each applicant for
1397 registration a family child care home safety evaluation form to be
1398 completed by the applicant and submitted with the registration
1399 application.

1400 (4) The certificate of registration shall be renewed
1401 annually in the same manner provided for in this section.

1402 (5) A certificate of registration shall be in force for one
1403 (1) year after the date of issuance unless revoked pursuant to
1404 Sections 43-20-51 through 43-20-65. The certificate shall specify
1405 that the registrant may operate a family child care home for five
1406 (5) or fewer children. This section shall not be construed to
1407 limit the right of the registering agency to enter a registered
1408 family child care home for the purpose of assessing compliance
1409 with Sections 43-20-51 through 43-20-65 after receiving a
1410 complaint against the registrant of such home or in conducting a
1411 periodic routine inspection.

1412 (6) The registering agency shall adopt rules and regulations
1413 to implement the registration provisions.

1414 **SECTION 43.** Section 43-20-61, Mississippi Code of 1972, is
1415 amended as follows:

1416 43-20-61. The registering agency may deny, revoke or refuse
1417 to renew a certificate of registration upon determination that the
1418 registrant falsified information on the application or willfully



1419 and substantially has violated Sections 43-20-51 through 43-20-65,
1420 inclusive and amendments thereto. The registering agency shall
1421 not revoke or refuse to renew any certificate without giving
1422 notice and conducting a hearing.

1423 **SECTION 44.** Section 43-20-63, Mississippi Code of 1972, is
1424 amended as follows:

1425 43-20-63. The registering agency may suspend any certificate
1426 of registration issued under the provision of Sections 43-20-51
1427 through 43-20-65 upon any of the following grounds and in the
1428 manner provided in Sections 43-20-51 through 43-20-65:

1429 (a) Violation by the registrant of any provision of
1430 Sections 43-20-51 through 43-20-65 or of the rules and regulations
1431 promulgated under Sections 43-20-51 through 43-20-65;

1432 (b) Aiding, abetting or permitting the violation of any
1433 provision of Sections 43-20-51 through 43-20-65 or of the rules
1434 and regulations promulgated under Sections 43-20-51 through
1435 43-20-65;

1436 (c) Conduct in the operation or maintenance, or both
1437 the operation and maintenance of a family child care home which is
1438 inimical to health, morals, welfare or safety of either an
1439 individual in or receiving services from the home or the people of
1440 this state; and

1441 (d) The conviction of a registrant at any time during
1442 registration of any crime under state or federal law.

1443 The registering agency may suspend any certificate of
1444 registration issued under the provisions of Sections 43-20-51
1445 through 43-20-65 prior to any hearing when, in the opinion of the
1446 registering agency, the action is necessary to protect any child
1447 in the family child care home from physical or mental abuse,
1448 abandonment or any other substantial threat to health or safety.

1449 **SECTION 45.** Section 43-20-65, Mississippi Code of 1972, is
1450 amended as follows:



1451 43-20-65. Information received by the registering agency
1452 through filed reports, inspections or otherwise authorized under
1453 Sections 43-20-51 through 43-20-65 shall not be disclosed publicly
1454 in such manner as to identify individuals. In any hearings
1455 conducted under regulation provisions of Sections 43-20-51 through
1456 43-20-65, the hearing officer may close the hearing to the public
1457 to prevent public disclosure of matters relating to individuals
1458 restricted by other law.

1459 **SECTION 46.** Section 75-74-3, Mississippi Code of 1972, is
1460 amended as follows:

1461 75-74-3. In this chapter, unless the context requires a
1462 different definition:

1463 (a) "Licensing agency" shall mean the Mississippi
1464 Department of Children's Affairs.

1465 (b) "Camper" shall mean any child six (6) to eighteen
1466 (18) years of age who is attending a youth camp.

1467 (c) "Executive director" shall mean the Executive
1468 Director, Mississippi Department of Children's Affairs.

1469 (d) "Person" shall mean any individual, partnership,
1470 corporation, association or organization.

1471 (e) "Youth camp" shall mean any camp operating on a
1472 permanent campsite for four (4) or more consecutive periods of
1473 twenty-four (24) hours, and accommodating twenty (20) or more
1474 children six (6) to eighteen (18) years of age; provided, however,
1475 athletic camps and hunting and fishing camps shall not be included
1476 in this definition.

1477 (f) "Permanent campsite" shall mean a campground
1478 containing within the premises thereof permanent structures and
1479 installed facilities which are primarily used for camping purposes
1480 by a youth camp operator; provided, however, facilities owned by
1481 the State of Mississippi, any political subdivision thereof or any
1482 public or private university, college or junior college shall not
1483 be included in this definition.



1484 (g) "Youth camp operator" shall mean any person who
1485 owns, operates, controls or supervises, whether or not for profit,
1486 a youth camp.

1487 **SECTION 47.** Section 75-74-7, Mississippi Code of 1972, is
1488 amended as follows:

1489 75-74-7. The licensing agency is the principal authority in
1490 the state on matters relating to the condition of safety and
1491 health at youth camps in Mississippi. The licensing agency has
1492 the powers and duties set out in this chapter and all other powers
1493 necessary and convenient to carry out its responsibilities.

1494 **SECTION 48.** Section 75-74-8, Mississippi Code of 1972, is
1495 amended as follows:

1496 75-74-8. (1) Any nonresident physician who is not licensed
1497 to practice medicine in this state and any resident physician who
1498 is retired from the active practice of medicine in this state may
1499 be issued a temporary license by the State Board of Medical
1500 Licensure to practice medicine at a youth camp licensed by the
1501 licensing agency under this chapter while serving as a volunteer
1502 at such a camp, provided that any such nonresident physician shall
1503 hold a valid license to practice medicine in another state and the
1504 medical licensing authority of that state shall certify to the
1505 Board of Medical Licensure in writing that such license is in good
1506 standing, and that any such retired resident physician shall be in
1507 good standing with the Board of Medical Licensure.

1508 (2) Any nonresident registered nurse who is not licensed to
1509 practice nursing in this state and any resident registered nurse
1510 who is retired from the active practice of nursing in this state
1511 may be issued a temporary license by the Mississippi Board of
1512 Nursing to practice nursing at a youth camp licensed under this
1513 chapter * * * while serving as a volunteer at such a camp,
1514 provided that any such nonresident nurse shall hold a valid
1515 license to practice nursing in another state and the nurse
1516 licensing authority of that state shall certify to the Board of



1517 Nursing in writing that such license is in good standing, and that
1518 any such retired resident nurse shall be in good standing with the
1519 Board of Nursing. The Board of Nursing shall be authorized to
1520 require any resident registered nurse who has been retired from
1521 the active practice of nursing in this state for five (5) or more
1522 consecutive years to complete a nursing reorientation program
1523 prescribed by the board before the board will issue a temporary
1524 license to practice nursing at a youth camp to such nurse.

1525 (3) A temporary license issued under subsection (1) or (2)
1526 of this section shall authorize the physician or registered nurse
1527 to whom the license is issued to administer treatment and care
1528 within the scope of his training to campers and employees of the
1529 youth camp, but shall not authorize the physician or registered
1530 nurse to otherwise practice in the state. Such temporary license
1531 shall be valid only during the time that the physician or
1532 registered nurse is in residence at the camp, but in no event
1533 shall such license be valid for more than ninety (90) days. A new
1534 temporary license shall be obtained by a physician or registered
1535 nurse each time that he serves as a volunteer at a youth camp.
1536 The fee for each such license shall be Twenty-five Dollars
1537 (\$25.00), which shall be payable to the board from which the
1538 license is obtained.

1539 **SECTION 49.** Section 75-74-9, Mississippi Code of 1972, is
1540 amended as follows:

1541 75-74-9. (1) The licensing agency shall have the authority
1542 and the duty to make and promulgate rules and regulations
1543 consistent with the policy and purpose of this chapter, and to
1544 amend any rule or regulation it makes. In developing such rules
1545 and regulations, the licensing agency shall consult with
1546 appropriate public and private officials and organizations and
1547 parents and camp operators. It shall be the duty of the licensing
1548 agency to advise all existing youth camps in this state of this



1549 chapter and any rules and regulations promulgated under this
1550 chapter.

1551 (2) There is created within the licensing agency the
1552 advisory council on youth camp safety to advise and consult on
1553 policy matters relating to youth camp safety. The council
1554 consists of the Executive Director of the Mississippi Department
1555 of Children's Affairs, or his representative, and a minimum of
1556 eight (8) members appointed by the executive director, including
1557 the following groups: one (1) member representative each from a
1558 private nonsectarian camp, a church-related or sponsored camp, the
1559 Girl Scouts of America, the Boy Scouts of America, the Mississippi
1560 Camping Association, camps for the handicapped and civic
1561 organization camps; and a consumer, a parent or an older youth
1562 with prior camping experience. A member is entitled to hold
1563 office for two (2) years or until his successor is appointed and
1564 qualifies. The executive director, or his representative, shall
1565 fill vacancies for unexpired terms. Council members serve without
1566 compensation, but are entitled to be reimbursed for actual
1567 expenses incurred in the performance of their duties. The
1568 executive director may appoint special advisory or technical
1569 experts and consultants as are necessary to assist the council in
1570 carrying out its functions.

1571 (3) No rule or regulation promulgated or amended by the
1572 licensing agency under this chapter shall be effective until a
1573 public hearing is held thereon. Notice of a public hearing,
1574 including the time, date and location of the hearing and the
1575 substance of the proposed rule, regulation or amendment, shall be
1576 given by the licensing agency to each licensee of a youth camp and
1577 the general public not less than ten (10) days nor more than
1578 thirty (30) days before the hearing. Any interested person may
1579 appear at the hearing to present evidence or testimony concerning
1580 the proposed rule, regulation or amendment.



1581 **SECTION 50.** Section 75-74-11, Mississippi Code of 1972, is
1582 amended as follows:

1583 75-74-11. No person or organization may operate or sponsor a
1584 youth camp in Mississippi without first holding a valid license
1585 under this chapter and without complying with the provisions of
1586 this chapter and with any rule, regulation or order of the
1587 licensing agency.

1588 Each application for a license to operate or sponsor a youth
1589 camp shall be accompanied by a license fee of One Hundred Dollars
1590 (\$100.00), which shall be paid to the licensing agency. A license
1591 issued under this chapter may be renewed upon payment of a renewal
1592 fee of One Hundred Dollars (\$100.00), which shall be paid to the
1593 licensing agency.

1594 No governmental entity or agency shall be required to pay the
1595 fee or fees set forth in this section.

1596 **SECTION 51.** Section 75-74-17, Mississippi Code of 1972, is
1597 amended as follows:

1598 75-74-17. (1) No person may operate a youth camp in
1599 Mississippi without complying with all provisions of this chapter,
1600 and any rules, regulations and orders of the licensing agency.

1601 (2) Any person operating a youth camp in Mississippi without
1602 a license shall be guilty of a misdemeanor. Each day shall
1603 constitute a separate offense.

1604 **SECTION 52.** Section 75-74-19, Mississippi Code of 1972, is
1605 amended as follows:

1606 75-74-19. All fees collected by the licensing agency under
1607 this chapter and any penalties collected by the licensing agency
1608 for violations of this chapter shall be deposited in a special
1609 fund hereby created in the State Treasury and shall be used for
1610 the implementation and administration of this chapter when
1611 appropriated by the Legislature for such purpose.

1612 **SECTION 53.** Section 43-15-3, Mississippi Code of 1972, is
1613 amended as follows:



1614 43-15-3. The Mississippi Department of Children's Affairs is
1615 hereby authorized, empowered and directed to cooperate fully with
1616 the United States Children's Bureau and Secretary of Labor in
1617 establishing, extending and strengthening "child welfare services"
1618 for the protection and care of homeless, dependent and neglected
1619 children and children in danger of becoming delinquent. Said
1620 Mississippi Department of Children's Affairs is further
1621 authorized, empowered and directed to cooperate with the United
1622 States Children's Bureau and Secretary of Labor in developing
1623 plans for said "child welfare services" and extending any other
1624 cooperation necessary under Section 521 of Public Law No. 271-74th
1625 Congress of the United States.

1626 In furtherance of the "child welfare services" referred to in
1627 the first paragraph hereof the State Treasurer is hereby
1628 authorized and directed to receive on behalf of the state, and to
1629 execute all instruments incidental thereto, federal or other funds
1630 to be used for "child welfare services," and to place such funds
1631 in a special account to the credit of the "child welfare
1632 services," which said funds shall be expended by the Mississippi
1633 Department of Children's Affairs for the purposes and under the
1634 provisions of this article and Section 521 of Public Law No.
1635 271-74th Congress of the United States. It shall be paid out by
1636 the State Treasurer as funds appropriated to carry out the
1637 provisions of said laws.

1638 The Mississippi Department of Children's Affairs shall issue
1639 all checks on said "child welfare services" fund to persons
1640 entitled to payment from said fund. All such sums shall be drawn
1641 upon the "child welfare services" fund upon requisition of the
1642 Executive Director of the Mississippi Department of Children's
1643 Affairs.

1644 The money in the "child welfare services" fund shall be
1645 expended in accordance with the rules and regulations of the
1646 United States Children's Bureau and Secretary of Labor and in



1647 accordance with the plan developed by the Mississippi Department
1648 of Children's Affairs and the United States Children's Bureau
1649 under Section 521 of Public Law No. 271-74th Congress of the
1650 United States, and shall not be used for any other purpose.

1651 If a claim for foster care and/or adoption assistance under
1652 Title IV-E of the federal Social Security Act is not acted upon
1653 within a reasonable time after the filing of the claim, or is
1654 denied in whole or in part, the claimant may appeal to the
1655 Director of the Division of Family and Children's Services in the
1656 manner and form prescribed by the Mississippi Department of
1657 Children's Affairs. The Director of the Division of Family and
1658 Children's Services shall, upon receipt of such an appeal, give
1659 the claimant reasonable notice and opportunity for a fair hearing.
1660 The Director of the Division of Family and Children's Services may
1661 also, upon his or her own motion, review any decision regarding a
1662 claim, and may consider any claim upon which a decision has not
1663 been made within a reasonable time. All decisions of the Director
1664 of Family and Children's Services shall be final and binding.

1665 **SECTION 54.** Section 43-15-5, Mississippi Code of 1972, is
1666 amended as follows:

1667 43-15-5. (1) The Mississippi Department of Children's
1668 Affairs shall have authority and it shall be its duty to
1669 administer or supervise all public child welfare services,
1670 including those services, responsibilities, duties and powers with
1671 which the county departments of children's affairs are charged and
1672 empowered in this article; administer and supervise the licensing
1673 and inspection of all private child placing agencies; provide for
1674 the care of dependent and neglected children in foster family
1675 homes or in institutions, supervise the care of such children and
1676 those of illegitimate birth; supervise the importation of
1677 children; and supervise the operation of all state institutions
1678 for children. The Mississippi Department of Children's Affairs
1679 shall be authorized to purchase hospital and medical insurance



1680 coverage for those children placed in foster care by the state or
1681 county departments of children's affairs who are not otherwise
1682 eligible for medical assistance under the Mississippi Medicaid
1683 Law. The Mississippi Department of Children's Affairs shall be
1684 further authorized to purchase burial or life insurance not
1685 exceeding One Thousand Five Hundred Dollars (\$1,500.00) for those
1686 children placed in foster care by the state or county departments
1687 of children's affairs. All insurance coverage authorized herein
1688 may be purchased with any funds other than state funds available
1689 to the Mississippi Department of Children's Affairs, including
1690 those funds available to the child which are administered by the
1691 department.

1692 (2) Any person, partnership, group, corporation,
1693 organization or association desiring to operate a child
1694 residential home, as defined in Section 43-16-3, may make
1695 application for a license for such a facility to the Mississippi
1696 Department of Children's Affairs on the application forms
1697 furnished for this purpose by the department. If an applicant
1698 meets the published rules and regulations of the department
1699 regarding minimum standards for a child residential home, then the
1700 applicant shall be granted a license by the department.

1701 **SECTION 55.** Section 43-15-6, Mississippi Code of 1972, is
1702 amended as follows:

1703 43-15-6. (1) Any person, institution, facility, clinic,
1704 organization or other entity that provides services to children in
1705 a residential setting where care, lodging, maintenance, and
1706 counseling or therapy for alcohol or controlled substance abuse or
1707 for any other emotional disorder or mental illness is provided for
1708 children, whether for compensation or not, that holds himself,
1709 herself, or itself out to the public as providing such services,
1710 and that is entrusted with the care of the children to whom he,
1711 she, or it provides services, because of the nature of the



1712 services and the setting in which the services are provided shall
1713 be subject to the provisions of this section.

1714 (2) Each entity to which this section applies shall
1715 complete, through the appropriate governmental authority, a
1716 national criminal history record information check and a child
1717 abuse registry check for each owner, operator, employee,
1718 prospective employee, volunteer or prospective volunteer of the
1719 entity and/or any other that has or may have unsupervised access
1720 to a child served by the entity. In order to determine the
1721 applicant's suitability for employment, the entity shall ensure
1722 that the applicant be fingerprinted by local law enforcement, and
1723 the results forwarded to the Department of Public Safety. If no
1724 disqualifying record is identified at the state level, the
1725 fingerprints shall be forwarded by the Department of Public Safety
1726 to the FBI for a national criminal history record check.

1727 (3) An owner, operator, employee, prospective employee,
1728 volunteer or prospective volunteer of the entity and/or any other
1729 that has or may have unsupervised access to a child who has a
1730 criminal history of conviction or pending indictment of a crime,
1731 whether a misdemeanor or a felony, that bears upon an individual's
1732 fitness to have responsibility for the safety and well-being of
1733 children as set forth in this chapter may not provide child care
1734 or operate, or be licensed as, a residential child care program,
1735 foster parent, or foster home.

1736 (4) All fees incurred in compliance with this section shall
1737 be borne by the individual or entity to which subsection (1)
1738 applies.

1739 (5) The Mississippi Department of Children's Affairs shall
1740 have the authority to set fees, to exclude a particular crime or
1741 crimes or a substantiated finding of child abuse and/or neglect as
1742 disqualifying individuals or entities from providing foster care
1743 or residential child care, and adopt such other rules and



1744 regulations as may be required to carry out the provisions of this
1745 section.

1746 (6) Any entity that violates the provisions of this section
1747 by failure to complete sex offense criminal history record
1748 information and felony conviction record information checks, as
1749 required under subsection (3) of this section, shall be subject to
1750 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such
1751 violation and may be enjoined from further operation until it
1752 complies with this section in actions maintained by the Attorney
1753 General.

1754 (7) The Mississippi Department of Children's Affairs and/or
1755 its officers, employees, attorneys, agents and representatives
1756 shall not be held civilly liable for any findings, recommendations
1757 or actions taken pursuant to this section.

1758 **SECTION 56.** Section 43-15-7, Mississippi Code of 1972, is
1759 amended as follows:

1760 43-15-7. The Mississippi Department of Children's Affairs is
1761 hereby authorized to provide protective services for children as
1762 will conserve home life; assume responsibility for the care and
1763 support of dependent children needing public care away from their
1764 homes; place children found by the department to be dependent or
1765 without proper care in suitable institutions or private homes, and
1766 cooperate with public and private institutions and agencies in
1767 placing such children in suitable institutions or private homes;
1768 accept custody or guardianship, through one (1) of its designated
1769 employees, of any child, when appointed as custodian or guardian
1770 in the manner provided by law.

1771 The board of supervisors in each county is hereby empowered,
1772 in its discretion, to set aside and appropriate out of the tax
1773 levied and collected to support the poor of the county or out of
1774 the county general fund necessary monies to be administered by the
1775 county department of children's affairs to carry out the
1776 provisions of this section.



1777 **SECTION 57.** Section 43-15-11, Mississippi Code of 1972, is
1778 amended as follows:

1779 43-15-11. (1) The board of supervisors of any county and/or
1780 the mayor and board of commissioners of any city and/or the mayor
1781 and board of aldermen of any municipality in this state are hereby
1782 authorized and empowered, in their discretion, to expend out of
1783 any monies in their respective treasuries, to be drawn by warrant
1784 thereon, a sum or sums of money not exceeding a total of
1785 Twenty-five Dollars (\$25.00) annually per One Million Dollars
1786 (\$1,000,000.00) of the assessed valuation of the real and personal
1787 property thereof for the purpose of providing for the care,
1788 support and maintenance of homeless or destitute children of any
1789 county or municipality of this state who are supported, cared for,
1790 maintained and placed for adoption by any children's home society
1791 which operates over and serves the entire State of Mississippi,
1792 and which is approved and licensed by the Mississippi Department
1793 of Children's Affairs.

1794 (2) The authority granted in this section is supplemental of
1795 and in addition to all existing authority for the expenditure of
1796 funds by such boards of supervisors and municipal governing
1797 authorities.

1798 **SECTION 58.** Section 43-15-13, Mississippi Code of 1972, is
1799 amended as follows:

1800 43-15-13. (1) For purposes of this section, "children"
1801 means persons found within the state who are under the age of
1802 twenty-one (21) years, and who were placed in the custody of the
1803 Mississippi Department of Children's Affairs by the youth court of
1804 the appropriate county.

1805 (2) The Mississippi Department of Children's Affairs shall
1806 establish a foster care placement program for children whose
1807 custody lies with the department, with the following objectives:

1808 (a) Protecting and promoting the health, safety and
1809 welfare of children;



1810 (b) Preventing the unnecessary separation of children
1811 from their families by identifying family problems, assisting
1812 families in resolving their problems and preventing the breakup of
1813 the family where the prevention of child removal is desirable and
1814 possible when the child can be cared for at home without
1815 endangering the child's health and safety;

1816 (c) Remedying or assisting in the solution of problems
1817 which may result in the neglect, abuse, exploitation or
1818 delinquency of children;

1819 (d) Restoring to their families children who have been
1820 removed, by the provision of services to the child and the
1821 families when the child can be cared for at home without
1822 endangering the child's health and safety;

1823 (e) Placing children in suitable adoptive homes
1824 approved by a licensed adoption agency or licensed social worker,
1825 in cases where restoration to the biological family is not safe,
1826 possible or appropriate;

1827 (f) Assuring safe and adequate care of children away
1828 from their homes, in cases where the child cannot be returned home
1829 or cannot be placed for adoption. At the time of placement, the
1830 department shall implement concurrent planning, as described in
1831 subsection (8) of this section, so that permanency may occur at
1832 the earliest opportunity. Consideration of possible failure or
1833 delay of reunification should be given, to the end that the
1834 placement made is the best available placement to provide
1835 permanency for the child; and

1836 (g) Providing a social worker or social work team for a
1837 family and child throughout the implementation of their permanent
1838 living arrangement plan. Wherever feasible, the same social
1839 worker or social work team shall remain on the case until the
1840 child is no longer under the jurisdiction of the youth court.

1841 (3) The Mississippi Department of Children's Affairs shall
1842 administer a system of individualized plans and reviews once every



1843 six (6) months for each child under its custody within the State
1844 of Mississippi, each child who has been adjudged a neglected,
1845 abandoned or abused child and whose custody was changed by court
1846 order as a result of such adjudication, and each public or private
1847 facility licensed by the department. The Mississippi Department
1848 of Children's Affairs administrative review shall be completed on
1849 each child within the first three (3) months and a foster care
1850 review once every six (6) months after the child's initial
1851 forty-eight-hour shelter hearing. Such system shall be for the
1852 purpose of enhancing potential family life for the child by the
1853 development of individual plans to return the child to its natural
1854 parent or parents, or to refer the child to the appropriate court
1855 for termination of parental rights and placement in a permanent
1856 relative's home, adoptive home or foster/adoptive home. The goal
1857 of the Mississippi Department of Children's Affairs shall be to
1858 return the child to its natural parent(s) or refer the child to
1859 the appropriate court for termination of parental rights and
1860 placement in a permanent relative's home, adoptive home or
1861 foster/adoptive home within the time periods specified in this
1862 subsection or in subsection (4) of this section. In furthering
1863 this goal, the department shall establish policy and procedures
1864 designed to appropriately place children in permanent homes, such
1865 policy to include a system of reviews for all children in foster
1866 care, as follows: foster care counselors in the department shall
1867 make all possible contact with the child's natural parent(s) and
1868 any interested relative for the first two (2) months following the
1869 child's entry into the foster care system. For any child who was
1870 in foster care before July 1, 1998, and has been in foster care
1871 for fifteen (15) of the last twenty-two (22) months regardless of
1872 whether the foster care was continuous for all of those twenty-two
1873 (22) months, the department shall file a petition to terminate the
1874 parental rights of the child's parents. The time period starts to
1875 run from the date the court makes a finding of abuse and/or



1876 neglect or sixty (60) days from when the child was removed from
1877 his or her home, whichever is earlier. The department can choose
1878 not to file a termination of parental rights petition if the
1879 following apply:

1880 (a) The child is being cared for by a relative; and/or

1881 (b) The department has documented compelling and
1882 extraordinary reasons why termination of parental rights would not
1883 be in the best interests of the child. Prior to granting or
1884 denying a request by the department for an extension of time for
1885 filing a termination of parental rights action, the court shall
1886 receive a written report on the progress which a parent of such
1887 child has made in treatment, to be made to the court in writing by
1888 a mental health/substance abuse therapist or counselor.

1889 (4) In the case of any child who is placed in foster care on
1890 or after July 1, 1998, except in cases of aggravated circumstances
1891 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
1892 parent(s) will have a reasonable time to be determined by the
1893 court, which shall not exceed a six-month period of time, in which
1894 to meet the service agreement with the department for the benefit
1895 of the child unless the department has documented extraordinary
1896 and compelling reasons for extending the time period in the best
1897 interest of the child. If this agreement has not been
1898 satisfactorily met, simultaneously the child will be referred to
1899 the appropriate court for termination of parental rights and
1900 placement in a permanent relative's home, adoptive home or a
1901 foster/adoptive home. For children under the age of three (3)
1902 years, termination of parental rights shall be initiated within
1903 six (6) months, unless the department has documented compelling
1904 and extraordinary circumstances, and placement in a permanent
1905 relative's home, adoptive home or foster/adoptive home within two
1906 (2) months. For children who have been abandoned pursuant to the
1907 provisions of Section 97-5-1, termination of parental rights shall
1908 be initiated within thirty (30) days and placement in an adoptive



1909 home shall be initiated without necessity for placement in a
1910 foster home. The department need not initiate termination of
1911 parental rights proceedings where the child has been placed in
1912 durable legal custody or long-term or formalized foster care by a
1913 court of competent jurisdiction.

1914 (5) The foster care review once every six (6) months shall
1915 be conducted by the youth court or its designee(s), and/or by
1916 personnel within the Mississippi Department of Children's Affairs
1917 or by a designee or designees of the department and may include
1918 others appointed by the department, and the review shall include
1919 at a minimum an evaluation of the child based on the following:

1920 (a) The extent of the care and support provided by the
1921 parents or parent, while the child is in temporary custody;

1922 (b) The extent of communication with the child by
1923 parents, parent or guardian;

1924 (c) The degree of compliance by the agency and the
1925 parents with the social service plan established;

1926 (d) The methods of achieving the goal and the plan
1927 establishing a permanent home for the child;

1928 (e) Social services offered and/or utilized to
1929 facilitate plans for establishing a permanent home for the child;
1930 and

1931 (f) Relevant testimony and recommendations from the
1932 foster parent of the child, the grandparents of the child, the
1933 guardian ad litem of the child, representatives of any private
1934 care agency which has cared for the child, the social worker
1935 assigned to the case, and any other relevant testimony pertaining
1936 to the case.

1937 Each child's review plan once every six (6) months shall be
1938 filed with the court which awarded custody and shall be made
1939 available to natural parents or foster parents upon approval of
1940 the court. The court shall make a finding as to the degree of
1941 compliance by the agency and the parent(s) with the child's social



1942 service plan. The court also shall find that the child's health
1943 and safety are the paramount concern. In the interest of the
1944 child, the court shall, where appropriate, initiate proceedings on
1945 its own motion. The Mississippi Department of Children's Affairs
1946 shall report to the Legislature as to the number of such children,
1947 the findings of the foster care review board and relevant
1948 statistical information in foster care in a semiannual report to
1949 the Legislature to be submitted to the Joint Oversight Committee
1950 of the Mississippi Department of Children's Affairs. The report
1951 shall not refer to the specific name of any child in foster care.

1952 (6) The Mississippi Department of Children's Affairs, with
1953 the cooperation and assistance of the State Department of Health,
1954 shall develop and implement a training program for foster care
1955 parents to indoctrinate them as to their proper responsibilities
1956 upon a child's entry into their foster care. The program shall
1957 provide a minimum of twelve (12) clock hours of training. The
1958 foster care training program shall be satisfactorily completed by
1959 such foster care parents prior to or within ninety (90) days after
1960 child placement with such parent. Record of such foster care
1961 parent's training program participation shall be filed with the
1962 court as part of a foster care child's review plan once every six
1963 (6) months.

1964 (7) When the Mississippi Department of Children's Affairs is
1965 considering placement of a child in a foster home and when the
1966 department deems it to be in the best interest of the child, the
1967 department shall give first priority to placing the child in the
1968 home of one (1) of the child's relatives within the third degree,
1969 as computed by the civil law rule. In placing the child in a
1970 relative's home, the department may waive any rule, regulation or
1971 policy applicable to placement in foster care that would otherwise
1972 require the child to have a separate bed or bedroom or have a
1973 bedroom of a certain size, if placing the child in a relative's



1974 home would be in the best interest of the child and such
1975 requirements cannot be met in the relative's home.

1976 (8) The Legislature recognizes that the best interests of
1977 the child require that the child be placed in the most permanent
1978 living arrangement as soon as is practicably possible. To achieve
1979 this goal, the Mississippi Department of Children's Affairs is
1980 directed to conduct concurrent planning so that a permanent living
1981 arrangement may occur at the earliest opportunity. Permanent
1982 living arrangements may include prevention of placement of a child
1983 outside the home of the family when the child can be cared for at
1984 home without endangering the child's health or safety;
1985 reunification with the family, when safe and appropriate, if
1986 temporary placement is necessary; or movement of the child toward
1987 the most permanent living arrangement and permanent legal status.
1988 When a child is placed in foster care or relative care, the
1989 department shall first ensure and document that reasonable efforts
1990 were made to prevent or eliminate the need to remove the child
1991 from the child's home. The department's first priority shall be
1992 to make reasonable efforts to reunify the family when temporary
1993 placement of the child occurs or shall request a finding from the
1994 court that reasonable efforts are not appropriate or have been
1995 unsuccessful. A decision to place a child in foster care or
1996 relative care shall be made with consideration of the child's
1997 health, safety and best interests. At the time of placement,
1998 consideration should also be given so that if reunification fails
1999 or is delayed, the placement made is the best available placement
2000 to provide a permanent living arrangement for the child. The
2001 department shall adopt rules addressing concurrent planning for
2002 reunification and a permanent living arrangement. The department
2003 shall consider the following factors when determining
2004 appropriateness of concurrent planning:

2005 (a) The likelihood of prompt reunification;

2006 (b) The past history of the family;



2007 (c) The barriers to reunification being addressed by
2008 the family;

2009 (d) The level of cooperation of the family;

2010 (e) The foster parents' willingness to work with the
2011 family to reunite;

2012 (f) The willingness and ability of the foster family or
2013 relative placement to provide an adoptive home or long-term
2014 placement;

2015 (g) The age of the child; and

2016 (h) Placement of siblings.

2017 (9) If the department has placed a child in foster care or
2018 relative care pursuant to a court order, the department may not
2019 change the child's placement unless the department specifically
2020 documents to the court that the current placement is unsafe or
2021 unsuitable or that another placement is in the child's best
2022 interests unless the new placement is in an adoptive home or other
2023 permanent placement. Except in emergency circumstances as
2024 determined by the department or where the court orders placement
2025 of the child pursuant to Section 43-21-303, the foster parents,
2026 grandparents or other relatives of the child shall be given an
2027 opportunity to contest the specific reasons documented by the
2028 department at least seventy-two (72) hours prior to any such
2029 departure, and the court may conduct a review of such placement
2030 unless the new placement is in an adoptive home or other permanent
2031 placement. When a child is returned to foster care or relative
2032 care, the former foster parents or relative placement shall be
2033 given the prior right of return placement in order to eliminate
2034 additional trauma to the child.

2035 (10) The Mississippi Department of Children's Affairs shall
2036 provide the foster parents, grandparents or other relatives with
2037 at least a seventy-two-hour notice of departure for any child
2038 placed in their foster care or relative care, except in emergency
2039 circumstances as determined by the department or where the court



2040 orders placement of the child pursuant to Section 43-21-303. The
2041 parent/legal guardian, grandparents of the child, guardian ad
2042 litem and the court exercising jurisdiction shall be notified in
2043 writing when the child leaves foster care or relative care
2044 placement, regardless of whether the child's departure was planned
2045 or unplanned. The only exceptions to giving a written notice to
2046 the parent(s) are when a parent has voluntarily released the child
2047 for adoption or the parent's legal rights to the child have been
2048 terminated through the appropriate court with jurisdiction.

2049 (11) The Mississippi Department of Children's Affairs shall
2050 extend the following rights to foster care parents:

2051 (a) A clear understanding of their role as foster
2052 parents and the roles of the birth parent(s) and the placement
2053 agency in respect to the child in care;

2054 (b) Respect, consideration, trust and value as a family
2055 who is making an important contribution to the agency's
2056 objectives;

2057 (c) Involvement in all the agency's crucial decisions
2058 regarding the foster child as team members who have pertinent
2059 information based on their day-to-day knowledge of the child in
2060 care;

2061 (d) Support from the social worker in efforts to do a
2062 better day-to-day job in caring for the child and in working to
2063 achieve the agency's objectives for the child and the birth family
2064 through provision of:

2065 (i) Pertinent information about the child and the
2066 birth family.

2067 (ii) Help in using appropriate resources to meet
2068 the child's needs.

2069 (iii) Direct interviews between the social worker
2070 and the child, previously discussed and understood by the foster
2071 parents;



2072 (e) The opportunity to develop confidence in making
2073 day-to-day decisions in regard to the child;

2074 (f) The opportunity to learn and grow in their vocation
2075 through planned foster parent education;

2076 (g) The opportunity to be heard regarding agency
2077 practices that they may question; and

2078 (h) Reimbursement for costs of the foster child's care
2079 in the form of a board payment based on the age of the foster
2080 child as prescribed in Section 43-15-17.

2081 (12) The Mississippi Department of Children's Affairs shall
2082 require the following responsibilities from participating foster
2083 parents:

2084 (a) Understanding the department's function in regard
2085 to the foster care program and related social service programs;

2086 (b) Sharing with the department any information which
2087 may contribute to the care of foster children;

2088 (c) Functioning within the established goals and
2089 objectives to improve the general welfare of the foster child;

2090 (d) Recognizing the problems in foster home placement
2091 that will require professional advice and assistance and that such
2092 help should be utilized to its full potential;

2093 (e) Recognizing that the foster family will be one of
2094 the primary resources for preparing a child for any future plans
2095 that are made, including return to birth parent(s), termination of
2096 parental rights or reinstitutionalization;

2097 (f) Expressing their view of agency practices which
2098 relate to the foster child with the appropriate staff member;

2099 (g) Understanding that all information shared with the
2100 foster parents about the child and his/her birth parent(s) must be
2101 held in the strictest of confidence;

2102 (h) Cooperating with any plan to reunite the foster
2103 child with his birth family and work with the birth family to
2104 achieve this goal; and



2105 (i) Attending dispositional review hearings and
2106 termination of parental rights hearings conducted by a court of
2107 competent jurisdiction, or providing their recommendations to the
2108 court in writing.

2109 **SECTION 59.** Section 43-15-15, Mississippi Code of 1972, is
2110 amended as follows:

2111 43-15-15. The Mississippi Department of Children's Affairs
2112 shall maintain a registry of children whose custody lies with them
2113 and private or public agencies licensed by the department. Said
2114 registry shall contain classifications of children as:

2115 (a) Temporary custody for evaluation, not to exceed
2116 three (3) months;

2117 (b) Temporary custody not to exceed one (1) year with
2118 the plan to return custody to the natural parents;

2119 (c) Temporary custody, not to exceed two (2) years,
2120 with a plan to free for adoption;

2121 (d) Children freed for adoption;

2122 (e) Children ages fourteen (14) and above who have
2123 voluntarily chosen not to be adopted and cannot be returned to
2124 their own homes; and

2125 (f) Children who are institutionalized and for whom
2126 placement in an adoptive home is not feasible.

2127 **SECTION 60.** Section 43-15-17, Mississippi Code of 1972, is
2128 amended as follows:

2129 43-15-17. (1) The Mississippi Department of Children's
2130 Affairs is authorized to make such payments as may be appropriate
2131 for supportive services to facilitate either the return of
2132 children to their natural parents or their adoption, depending
2133 upon and contingent upon the availability of the Mississippi
2134 Department of Children's Affairs securing or having sufficient
2135 funds to render this supportive service. Upon court order, the
2136 parent(s) shall be responsible for reimbursing the department for
2137 any foster care payments made on behalf of his or her child, based



2138 upon financial ability to pay, until such time as there is a
2139 termination of parental rights regarding the child, or the child
2140 is adopted.

2141 (2) For those children placed in foster care by the state or
2142 county departments of children's affairs, the department shall
2143 make monthly payments for the support of these children's room and
2144 board, clothing, allowance and personal needs. From and after
2145 July 1, 1998, and subject to the availability of funds
2146 specifically appropriated therefor, the Mississippi Department of
2147 Children's Affairs foster care and therapeutic care monthly
2148 payment schedule in effect prior to that date shall be increased
2149 by One Hundred Dollars (\$100.00) per month, with said minimum
2150 payment not to preclude the department from increasing payments in
2151 subsequent years as funds become available. From and after July
2152 1, 1998, in order for foster parents to receive such monthly
2153 payments authorized under this subsection (2), the Mississippi
2154 Department of Children's Affairs shall require foster care
2155 placements to be licensed as foster care homes and shall require
2156 prospective foster parents to satisfactorily complete an
2157 appropriate training program which emphasizes the goal of the
2158 foster care program to provide stable foster placement until a
2159 permanency outcome is achieved.

2160 **SECTION 61.** Section 43-15-19, Mississippi Code of 1972, is
2161 amended as follows:

2162 43-15-19. (1) The Mississippi Department of Children's
2163 Affairs shall maintain a Mississippi Adoption Resource Exchange
2164 registry, which shall contain a total listing of all children
2165 freed for adoption as well as a listing of all persons who wish to
2166 adopt children and who are approved by a licensed adoption agency
2167 in the State of Mississippi. Said registry shall be distributed
2168 to all county children's affairs' directors and licensed adoption
2169 agencies within the state and shall be updated at least quarterly.
2170 The Mississippi Department of Children's Affairs shall establish



2171 regulations for listing descriptive characteristics while
2172 protecting the privacy of the children's names. Listed names
2173 shall be removed when adoption placement plans are made for a
2174 child or when a person withdraws an application for adoption.

2175 (2) Adoptive parents shall be given the option of having
2176 their names placed in the registry. They shall be required to
2177 give written authority to the county * * * department of
2178 children's affairs to place their names in the registry and said
2179 authorization shall be forwarded to the Mississippi Department of
2180 Children's Affairs, Division of Social Services, for approval.

2181 **SECTION 62.** Section 43-15-23, Mississippi Code of 1972, is
2182 amended as follows:

2183 43-15-23. (1) As used in this section the term "placing
2184 out" means to arrange for the free care of a child in a family,
2185 other than that of the child's parent, stepparent, grandparent,
2186 brother, sister, uncle or aunt or legal guardian, for the purpose
2187 of adoption or for the purpose of providing care.

2188 (2) No person, agency, association, corporation,
2189 institution, society or other organization, except a child
2190 placement agency licensed by the Mississippi Department of
2191 Children's Affairs under Section 43-15-5, shall request, receive
2192 or accept any compensation or thing of value, directly or
2193 indirectly, for placing out of a child.

2194 (3) No person shall pay or give any compensation or thing of
2195 value, directly or indirectly, for placing out of a child to any
2196 person, agency, association, corporation, institution, society or
2197 other organization except a child placement agency licensed by the
2198 Mississippi Department of Children's Affairs.

2199 (4) The provisions of this section shall not be construed to
2200 (a) prevent the payment of salaries or other compensation by a
2201 child placement agency licensed by the Mississippi Department of
2202 Children's Affairs to the officers or employees thereof; (b)
2203 prevent the payment of legal fees, which have been approved by the



2204 chancery court, to an attorney for services performed in regard to
2205 adoption proceedings; (c) prevent the payment of reasonable and
2206 actual medical fees or hospital charges for services rendered in
2207 connection with the birth or medical treatment of such child to
2208 the physician or hospital which rendered the services; or (d)
2209 prevent the receipt of such payments by such attorney, physician
2210 or hospital.

2211 (5) Any person, agency, association, corporation,
2212 institution, society or other organization violating the
2213 provisions of this section shall be guilty of illegal placement of
2214 children and shall be punished by a fine not to exceed Five
2215 Thousand Dollars (\$5,000.00) or by imprisonment not more than five
2216 (5) years, or both such fine and imprisonment.

2217 **SECTION 63.** Section 43-15-103, Mississippi Code of 1972, is
2218 amended as follows:

2219 43-15-103. As used in this article:

2220 (a) "Agency" means a residential child-caring agency or
2221 a child-placing agency.

2222 (b) "Child" or "children" mean(s) any unmarried person
2223 or persons under the age of eighteen (18) years.

2224 (c) "Child placing" means receiving, accepting or
2225 providing custody or care for any child under eighteen (18) years
2226 of age, temporarily or permanently, for the purpose of:

2227 (i) Finding a person to adopt the child;

2228 (ii) Placing the child temporarily or permanently
2229 in a home for adoption; or

2230 (iii) Placing a child in a foster home or
2231 residential child-caring agency.

2232 (d) "Child-placing agency" means any entity or person
2233 which places children in foster boarding homes or foster homes for
2234 temporary care or for adoption or any other entity or person or
2235 group of persons who are engaged in providing adoption studies or



2236 foster care studies or placement services as defined by the rules
2237 of the department.

2238 (e) "Department" means the Mississippi Department of
2239 Children's Affairs.

2240 (f) "Director" means the Director of the Division of
2241 Family and Children's Services.

2242 (g) "Division" means the Division of Family and
2243 Children's Services within the Mississippi Department of
2244 Children's Affairs.

2245 (h) "Family boarding home" or "foster home" means a
2246 home (occupied residence) operated by any entity or person which
2247 provides residential child care to at least one (1) child but not
2248 more than six (6) children who are not related to the primary
2249 caregivers.

2250 (i) "Group care home" means any place or facility
2251 operated by any entity or person which provides residential child
2252 care for at least seven (7) children but not more than twelve (12)
2253 children who are not related to the primary caregivers.

2254 (j) "Licensee" means any person, agency or entity
2255 licensed under this article.

2256 (k) "Maternity home" means any place or facility
2257 operated by any entity or person which receives, treats or cares
2258 for more than one (1) child or adult who is pregnant out of
2259 wedlock, either before, during or within two (2) weeks after
2260 childbirth; provided, that the licensed child-placing agencies and
2261 licensed maternity homes may use a family boarding home approved
2262 and supervised by the agency or home, as a part of their work, for
2263 as many as three (3) children or adults who are pregnant out of
2264 wedlock, and provided further, that the provisions of this
2265 definition shall not include children or women who receive
2266 maternity care in the home of a person to whom they are kin within
2267 the sixth degree of kindred computed according to civil law, nor
2268 does it apply to any maternity care provided by general or special



2269 hospitals licensed according to law and in which maternity
2270 treatment and care are part of the medical services performed and
2271 the care of children is brief and incidental.

2272 (l) "Office" means the Office of Licensing within the
2273 Division of Family and Children's Services of the Mississippi
2274 Department of Children's Affairs.

2275 (m) "Person associated with a licensee" means an owner,
2276 director, member of the governing body, employee, provider of care
2277 and volunteer of a children's affairs licensee.

2278 (n) "Related" means children, step-children,
2279 grandchildren, step-grandchildren, siblings of the whole or
2280 half-blood, step-siblings, nieces or nephews of the primary care
2281 provider.

2282 (o) "Residential child care" means the provision of
2283 supervision, and/or protection, and meeting the basic needs of a
2284 child for twenty-four (24) hours per day, which may include
2285 services to children in a residential setting where care, lodging,
2286 maintenance and counseling or therapy for alcohol or controlled
2287 substance abuse or for any other emotional disorder or mental
2288 illness is provided for children, whether for compensation or not.

2289 (p) "Residential child-caring agency" means any place
2290 or facility operated by any entity or person, public or private,
2291 providing residential child care, regardless of whether operated
2292 for profit or whether a fee is charged. Such residential
2293 child-caring agencies include, but are not limited to, maternity
2294 homes, runaway shelters, group homes that are administered by an
2295 agency, and emergency shelters that are not in private residence.

2296 **SECTION 64.** Section 43-15-105, Mississippi Code of 1972, is
2297 amended as follows:

2298 43-15-105. (1) The Division of Family and Children's
2299 Services of the Mississippi Department of Children's Affairs shall
2300 be the licensing authority for the department, and is vested with
2301 all the powers, duties and responsibilities described in this



2302 article. The division shall make and establish rules and
2303 regulations regarding:

2304 (a) Approving, extending, denying, suspending and
2305 revoking licenses for foster homes, residential child-caring
2306 agencies and child-placing agencies;

2307 (b) Conditional licenses, variances from department
2308 rules and exclusions;

2309 (c) Basic health and safety standards for licensees;
2310 and

2311 (d) Minimum administration and financial requirements
2312 for licensees.

2313 (2) The division shall:

2314 (a) Define information that shall be submitted to the
2315 division with an application for a license;

2316 (b) Establish guidelines for the administration and
2317 maintenance of client and service records, including staff
2318 qualifications, staff to client ratios;

2319 (c) Issue licenses in accordance with this article;

2320 (d) Conduct surveys and inspections of licensees and
2321 facilities;

2322 (e) Establish and collect licensure fees;

2323 (f) Investigate complaints regarding any licensee or
2324 facility;

2325 (g) Have access to all records, correspondence and
2326 financial data required to be maintained by a licensee or
2327 facility;

2328 (h) Have authority to interview any client, family
2329 member of a client, employee or officer of a licensee or facility;
2330 and

2331 (i) Have authority to revoke, suspend or extend any
2332 license issued by the division.

2333 **SECTION 65.** Section 43-17-5, Mississippi Code of 1972, is
2334 amended as follows:



2335 43-17-5. (1) The amount of Temporary Assistance for Needy
2336 Families (TANF) benefits which may be granted for any dependent
2337 child and a needy caretaker relative shall be determined by the
2338 county department with due regard to the resources and necessary
2339 expenditures of the family and the conditions existing in each
2340 case, and in accordance with the rules and regulations made by the
2341 Department of Human Services which shall not be less than the
2342 Standard of Need in effect for 1988, and shall be sufficient when
2343 added to all other income (except that any income specified in the
2344 federal Social Security Act, as amended, may be disregarded) and
2345 support available to the child to provide such child with a
2346 reasonable subsistence compatible with decency and health. The
2347 first family member in the dependent child's budget may receive an
2348 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
2349 the second family member in the dependent child's budget may
2350 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
2351 month; and each additional family member in the dependent child's
2352 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
2353 month. The maximum for any individual family member in the
2354 dependent child's budget may be exceeded for foster or medical
2355 care or in cases of mentally retarded or physically handicapped
2356 children. TANF benefits granted shall be specifically limited
2357 only (a) to children existing or conceived at the time the
2358 caretaker relative initially applies and qualifies for such
2359 assistance, unless this limitation is specifically waived by the
2360 department, or (b) to a child born following a twelve (12)
2361 consecutive month period of discontinued benefits by the caretaker
2362 relative.

2363 (2) TANF cash benefits in Mississippi shall be provided by
2364 monthly checks mailed to the recipient family until such time as
2365 an on-line electronic benefits transfer system for TANF benefit
2366 payments is implemented pursuant to Section 43-1-28.



2367 (3) The Department of Human Services shall deny TANF
2368 benefits to the following categories of individuals, except for
2369 individuals and families specifically exempt or excluded for good
2370 cause as allowed by federal statute or regulation:

2371 (a) Families without a minor child residing with the
2372 custodial parent or other adult caretaker relative of the child;

2373 (b) Families which include an adult who has received
2374 TANF assistance for sixty (60) months after the commencement of
2375 the Mississippi TANF program, whether or not such period of time
2376 is consecutive;

2377 (c) Families not assigning to the state any rights a
2378 family member may have, on behalf of the family member or of any
2379 other person for whom the family member has applied for or is
2380 receiving such assistance, to support from any other person, as
2381 required by law;

2382 (d) Families who fail to cooperate in establishing
2383 paternity or obtaining child support, as required by law;

2384 (e) Any individual who has not attained eighteen (18)
2385 years of age, is not married to the head of household, has a minor
2386 child at least twelve (12) weeks of age in his or her care, and
2387 has not successfully completed a high school education or its
2388 equivalent, if such individual does not participate in educational
2389 activities directed toward the attainment of a high school diploma
2390 or its equivalent, or an alternative educational or training
2391 program approved by the department;

2392 (f) Any individual who has not attained eighteen (18)
2393 years of age, is not married, has a minor child in his or her
2394 care, and does not reside in a place or residence maintained by a
2395 parent, legal guardian or other adult relative or the individual
2396 as such parent's, guardian's or adult relative's own home;

2397 (g) Any minor child who has been, or is expected by a
2398 parent or other caretaker relative of the child to be, absent from
2399 the home for a period of more than thirty (30) days;



2400 (h) Any individual who is a parent or other caretaker
2401 relative of a minor child who fails to notify the department of
2402 the absence of the minor child from the home for the thirty-day
2403 period specified in paragraph (g), by the end of the five-day
2404 period that begins with the date that it becomes clear to the
2405 individual that the minor child will be absent for the thirty-day
2406 period;

2407 (i) Any individual who fails to comply with the
2408 provisions of the Employability Development Plan signed by the
2409 individual which prescribe those activities designed to help the
2410 individual become and remain employed, or to participate
2411 satisfactorily in the assigned work activity, as authorized under
2412 subsection (6)(c);

2413 (j) A parent or caretaker relative who has not engaged
2414 in an allowable work activity once the department determines the
2415 parent or caretaker relative is ready to engage in work, or once
2416 the parent or caretaker relative has received TANF assistance
2417 under the program for twenty-four (24) months, whether or not
2418 consecutive, whichever is earlier;

2419 (k) Any individual who is fleeing to avoid prosecution,
2420 or custody or confinement after conviction, under the laws of the
2421 jurisdiction from which the individual flees, for a crime, or an
2422 attempt to commit a crime, which is a felony under the laws of the
2423 place from which the individual flees, or who is violating a
2424 condition of probation or parole imposed under federal or state
2425 law;

2426 (l) Aliens who are not qualified under federal law;

2427 (m) For a period of ten (10) years following
2428 conviction, individuals convicted in federal or state court of
2429 having made a fraudulent statement or representation with respect
2430 to the individual's place of residence in order to receive TANF,
2431 food stamps or Supplemental Security Income (SSI) assistance under



2432 Title XVI or Title XIX simultaneously from two (2) or more states;
2433 and

2434 (n) Individuals who are recipients of federal
2435 Supplemental Security Income (SSI) assistance.

2436 (4) (a) Any person who is otherwise eligible for TANF
2437 benefits, including custodial and noncustodial parents, shall be
2438 required to attend school and meet the monthly attendance
2439 requirement as provided in this subsection if all of the following
2440 apply:

2441 (i) The person is under age twenty (20);

2442 (ii) The person has not graduated from a public or
2443 private high school or obtained a GED equivalent;

2444 (iii) The person is physically able to attend
2445 school and is not excused from attending school; and

2446 (iv) If the person is a parent or caretaker
2447 relative with whom a dependent child is living, child care is
2448 available for the child.

2449 The monthly attendance requirement under this subsection
2450 shall be attendance at the school in which the person is enrolled
2451 for each day during a month that the school conducts classes in
2452 which the person is enrolled, with not more than two (2) absences
2453 during the month for reasons other than the reasons listed in
2454 paragraph (e)(iv) of this subsection. Persons who fail to meet
2455 participation requirements in this subsection shall be subject to
2456 sanctions as provided in paragraph (f) of this subsection.

2457 (b) As used in this subsection, "school" means any one
2458 (1) of the following:

2459 (i) A school as defined in Section 37-13-91(2);

2460 (ii) A vocational, technical and adult education
2461 program; or

2462 (iii) A course of study meeting the standards
2463 established by the State Department of Education for the granting
2464 of a declaration of equivalency of high school graduation.



2465 (c) If any compulsory-school-age child, as defined in
2466 Section 37-13-91(2), to which TANF eligibility requirements apply
2467 is not in compliance with the compulsory school attendance
2468 requirements of Section 37-13-91(6), the superintendent of schools
2469 of the school district in which the child is enrolled or eligible
2470 to attend shall notify the county department of human services of
2471 the child's noncompliance. The Department of Human Services shall
2472 review school attendance information as provided under this
2473 paragraph at all initial eligibility determinations and upon
2474 subsequent report of unsatisfactory attendance.

2475 (d) The signature of a person on an application for
2476 TANF benefits constitutes permission for the release of school
2477 attendance records for that person or for any child residing with
2478 that person. The department shall request information from the
2479 child's school district about the child's attendance in the school
2480 district's most recently completed semester of attendance. If
2481 information about the child's previous school attendance is not
2482 available or cannot be verified, the department shall require the
2483 child to meet the monthly attendance requirement for one (1)
2484 semester or until the information is obtained. The department
2485 shall use the attendance information provided by a school district
2486 to verify attendance for a child. The department shall review
2487 with the parent or caretaker relative a child's claim that he or
2488 she has a good cause for not attending school.

2489 A school district shall provide information to the department
2490 about the attendance of a child who is enrolled in a public school
2491 in the district within five (5) working days of the receipt of a
2492 written request for such information from the department. The
2493 school district shall define how many hours of attendance count as
2494 a full day and shall provide that information, upon request, to
2495 the department. In reporting attendance, the school district may
2496 add partial days' absence together to constitute a full day's
2497 absence.



2498 (e) A child who is required to attend school to meet
2499 the requirements under this subsection shall comply except when
2500 there is good cause, which shall be demonstrated by any of the
2501 following circumstances:

2502 (i) The minor parent is the caretaker of a child
2503 less than twelve (12) weeks old; or

2504 (ii) The department determines that child care
2505 services are necessary for the minor parent to attend school and
2506 there is no child care available; or

2507 (iii) The child is prohibited by the school
2508 district from attending school and an expulsion is pending. This
2509 exemption no longer applies once the teenager has been expelled;
2510 however, a teenager who has been expelled and is making
2511 satisfactory progress towards obtaining a GED equivalent shall be
2512 eligible for TANF benefits; or

2513 (iv) The child failed to attend school for one or
2514 more of the following reasons:

2515 1. Illness, injury or incapacity of the child
2516 or the minor parent's child;

2517 2. Court-required appearances or temporary
2518 incarceration;

2519 3. Medical or dental appointments for the
2520 child or minor parent's child;

2521 4. Death of a close relative;

2522 5. Observance of a religious holiday;

2523 6. Family emergency;

2524 7. Breakdown in transportation;

2525 8. Suspension; or

2526 9. Any other circumstance beyond the control
2527 of the child, as defined in regulations of the department.

2528 (f) Upon determination that a child has failed without
2529 good cause to attend school as required, the department shall
2530 provide written notice to the parent or caretaker relative



2531 (whoever is the primary recipient of the TANF benefits) that
2532 specifies:

2533 (i) That the family will be sanctioned in the next
2534 possible payment month because the child who is required to attend
2535 school has failed to meet the attendance requirement of this
2536 subsection;

2537 (ii) The beginning date of the sanction, and the
2538 child to whom the sanction applies;

2539 (iii) The right of the child's parents or
2540 caretaker relative (whoever is the primary recipient of the TANF
2541 benefits) to request a fair hearing under this subsection.

2542 The child's parent or caretaker relative (whoever is the
2543 primary recipient of the TANF benefits) may request a fair hearing
2544 on the department's determination that the child has not been
2545 attending school. If the child's parents or caretaker relative
2546 does not request a fair hearing under this subsection, or if,
2547 after a fair hearing has been held, the hearing officer finds that
2548 the child without good cause has failed to meet the monthly
2549 attendance requirement, the department shall discontinue or deny
2550 TANF benefits to the child thirteen (13) years old, or older, in
2551 the next possible payment month. The department shall discontinue
2552 or deny twenty-five percent (25%) of the family grant when a child
2553 six (6) through twelve (12) years of age without good cause has
2554 failed to meet the monthly attendance requirement. Both the child
2555 and family sanction may apply when children in both age groups
2556 fail to meet the attendance requirement without good cause. A
2557 sanction applied under this subsection shall be effective for one
2558 (1) month for each month that the child failed to meet the monthly
2559 attendance requirement. In the case of a dropout, the sanction
2560 shall remain in force until the parent or caretaker relative
2561 provides written proof from the school district that the child has
2562 reenrolled and met the monthly attendance requirement for one (1)
2563 calendar month. Any month in which school is in session for at



2564 least ten (10) days during the month may be used to meet the
2565 attendance requirement under this subsection. This includes
2566 attendance at summer school. The sanction shall be removed the
2567 next possible payment month.

2568 (5) All parents or caretaker relatives shall have their
2569 dependent children receive vaccinations and booster vaccinations
2570 against those diseases specified by the State Health Officer
2571 pursuant to Section 41-23-37 in accordance with the vaccination
2572 and booster vaccination schedule prescribed by the State Health
2573 Officer for children of that age, in order for the parents or
2574 caretaker relatives to be eligible or remain eligible to receive
2575 TANF benefits. Proof of having received such vaccinations and
2576 booster vaccinations shall be given by presenting the certificates
2577 of vaccination issued by any health care provider licensed to
2578 administer vaccinations, and submitted on forms specified by the
2579 State Board of Health. If the parents without good cause do not
2580 have their dependent children receive the vaccinations and booster
2581 vaccinations as required by this subsection and they fail to
2582 comply after thirty (30) days' notice, the department shall
2583 sanction the family's TANF benefits by twenty-five percent (25%)
2584 for the next payment month and each subsequent payment month until
2585 the requirements of this subsection are met.

2586 (6) (a) If the parent or caretaker relative applying for
2587 TANF assistance is an employable person, as determined by the
2588 Department of Human Services, the person shall be required to
2589 engage in an allowable work activity once the department
2590 determines the parent or caretaker relative is ready to engage in
2591 work, or once the parent or caretaker relative has received TANF
2592 assistance under the program for twenty-four (24) months, whether
2593 or not consecutive, whichever is earlier. No TANF benefits shall
2594 be given to any person to whom this section applies who fails
2595 without good cause to comply with the Employability Development
2596 Plan prepared by the department for the person, or who has refused



2597 to accept a referral or offer of employment, training or education
2598 in which he or she is able to engage, subject to the penalties
2599 prescribed in subsection (6)(d). A person shall be deemed to have
2600 refused to accept a referral or offer of employment, training or
2601 education if he or she:

2602 (i) Willfully fails to report for an interview
2603 with respect to employment when requested to do so by the
2604 department; or

2605 (ii) Willfully fails to report to the department
2606 the result of a referral to employment; or

2607 (iii) Willfully fails to report for allowable work
2608 activities as prescribed in subsection (6)(c).

2609 (b) The Department of Human Services shall operate a
2610 statewide work program for TANF recipients to provide work
2611 activities and supportive services to enable families to become
2612 self-sufficient and improve their competitive position in the work
2613 force in accordance with the requirements of the federal Personal
2614 Responsibility and Work Opportunity Reconciliation Act of 1996
2615 (Public Law 104-193), as amended, and the regulations promulgated
2616 thereunder. All adults who are not specifically exempt shall be
2617 referred by the department for allowable work activities. An
2618 adult may be exempt from the mandatory work activity requirement
2619 for the following reasons:

2620 (i) Incapacity;

2621 (ii) Temporary illness or injury, verified by
2622 physician's certificate;

2623 (iii) Is in the third trimester of pregnancy,
2624 verified by physician's certificate;

2625 (iv) Caretaker of a child under twelve (12)
2626 months, for not more than twelve (12) months of the sixty-month
2627 maximum benefit period;

2628 (v) Caretaker of an ill or incapacitated person,
2629 as verified by physician's certificate;



2630 (vi) Age, if over sixty (60) or under eighteen
2631 (18) years of age;

2632 (vii) Receiving treatment for substance abuse, if
2633 the person is in compliance with the substance abuse treatment
2634 plan;

2635 (viii) In a two-parent family, the caretaker of a
2636 severely disabled child, as verified by a physician's certificate;
2637 or

2638 (ix) History of having been a victim of domestic
2639 violence, which has been reported as required by state law and is
2640 substantiated by police reports or court records, and being at
2641 risk of further domestic violence, shall be exempt for a period as
2642 deemed necessary by the department but not to exceed a total of
2643 twelve (12) months, which need not be consecutive, in the
2644 sixty-month maximum benefit period. For the purposes of this
2645 subparagraph (ix), "domestic violence" means that an individual
2646 has been subjected to:

2647 1. Physical acts that resulted in, or
2648 threatened to result in, physical injury to the individual;

2649 2. Sexual abuse;

2650 3. Sexual activity involving a dependent
2651 child;

2652 4. Being forced as the caretaker relative of
2653 a dependent child to engage in nonconsensual sexual acts or
2654 activities;

2655 5. Threats of, or attempts at, physical or
2656 sexual abuse;

2657 6. Mental abuse; or

2658 7. Neglect or deprivation of medical care.

2659 (c) For all families, all adults who are not
2660 specifically exempt shall be required to participate in work
2661 activities for at least the minimum average number of hours per
2662 week specified by federal law or regulation, not fewer than twenty



2663 (20) hours per week (thirty-five (35) hours per week for
2664 two-parent families) of which are attributable to the following
2665 allowable work activities:

2666 (i) Unsubsidized employment;
2667 (ii) Subsidized private employment;
2668 (iii) Subsidized public employment;
2669 (iv) Work experience (including work associated
2670 with the refurbishing of publicly assisted housing), if sufficient
2671 private employment is not available;

2672 (v) On-the-job training;
2673 (vi) Job search and job readiness assistance
2674 consistent with federal TANF regulations;

2675 (vii) Community service programs;
2676 (viii) Vocational educational training (not to
2677 exceed twelve (12) months with respect to any individual);

2678 (ix) The provision of child care services to an
2679 individual who is participating in a community service program;

2680 (x) Satisfactory attendance at high school or in a
2681 course of study leading to a high school equivalency certificate,
2682 for heads of household under age twenty (20) who have not
2683 completed high school or received such certificate;

2684 (xi) Education directly related to employment, for
2685 heads of household under age twenty (20) who have not completed
2686 high school or received such equivalency certificate.

2687 The following are allowable work activities which may be
2688 attributable to hours in excess of the minimum specified above:

2689 (i) Job skills training directly related to
2690 employment;

2691 (ii) Education directly related to employment for
2692 individuals who have not completed high school or received a high
2693 school equivalency certificate;

2694 (iii) Satisfactory attendance at high school or in
2695 a course of study leading to a high school equivalency, for



2696 individuals who have not completed high school or received such
2697 equivalency certificate;

2698 (iv) Job search and job readiness assistance
2699 consistent with federal TANF regulations.

2700 (d) If any adult or caretaker relative refuses to
2701 participate in allowable work activity as required under this
2702 subsection (6), the following full family TANF benefit penalty
2703 will apply, subject to due process to include notification,
2704 conciliation and a hearing if requested by the recipient:

2705 (i) For the first violation, the department shall
2706 terminate the TANF assistance otherwise payable to the family for
2707 a two-month period or until the person has complied with the
2708 required work activity, whichever is longer;

2709 (ii) For the second violation, the department
2710 shall terminate the TANF assistance otherwise payable to the
2711 family for a six-month period or until the person has complied
2712 with the required work activity, whichever is longer;

2713 (iii) For the third violation, the department
2714 shall terminate the TANF assistance otherwise payable to the
2715 family for a twelve-month period or until the person has complied
2716 with the required work activity, whichever is longer;

2717 (iv) For the fourth violation, the person shall be
2718 permanently disqualified.

2719 For a two-parent family, unless prohibited by state or
2720 federal law, Medicaid assistance shall be terminated only for the
2721 person whose failure to participate in allowable work activity
2722 caused the family's TANF assistance to be sanctioned under this
2723 subsection (6)(d), unless an individual is pregnant, but shall not
2724 be terminated for any other person in the family who is meeting
2725 that person's applicable work requirement or who is not required
2726 to work. Minor children shall continue to be eligible for
2727 Medicaid benefits regardless of the disqualification of their



2728 parent or caretaker relative for TANF assistance under this
2729 subsection (6), unless prohibited by state or federal law.

2730 (e) Any person enrolled in a two-year or four-year
2731 college program who meets the eligibility requirements to receive
2732 TANF benefits, and who is meeting the applicable work requirements
2733 and all other applicable requirements of the TANF program, shall
2734 continue to be eligible for TANF benefits while enrolled in the
2735 college program for as long as the person meets the requirements
2736 of the TANF program, unless prohibited by federal law.

2737 (f) No adult in a work activity required under this
2738 subsection (6) shall be employed or assigned (i) when any other
2739 individual is on layoff from the same or any substantially
2740 equivalent job within six (6) months before the date of the TANF
2741 recipient's employment or assignment; or (ii) if the employer has
2742 terminated the employment of any regular employee or otherwise
2743 caused an involuntary reduction of its work force in order to fill
2744 the vacancy so created with an adult receiving TANF assistance.
2745 The Mississippi Employment Security Commission, established under
2746 Section 71-5-101, shall appoint one or more impartial hearing
2747 officers to hear and decide claims by employees of violations of
2748 this paragraph (f). The hearing officer shall hear all the
2749 evidence with respect to any claim made hereunder and such
2750 additional evidence as he may require and shall make a
2751 determination and the reason therefor. The claimant shall be
2752 promptly notified of the decision of the hearing officer and the
2753 reason therefor. Within ten (10) days after the decision of the
2754 hearing officer has become final, any party aggrieved thereby may
2755 secure judicial review thereof by commencing an action, in the
2756 circuit court of the county in which the claimant resides, against
2757 the commission for the review of such decision, in which action
2758 any other party to the proceeding before the hearing officer shall
2759 be made a defendant. Any such appeal shall be on the record which
2760 shall be certified to the court by the commission in the manner



2761 provided in Section 71-5-531, and the jurisdiction of the court
2762 shall be confined to questions of law which shall render its
2763 decision as provided in that section.

2764 (7) The Department of Human Services may provide child care
2765 for eligible participants who require such care so that they may
2766 accept employment or remain employed. The department may also
2767 provide child care for those participating in the TANF program
2768 when it is determined that they are satisfactorily involved in
2769 education, training or other allowable work activities. The
2770 department may contract with Head Start agencies to provide child
2771 care services to TANF recipients. The department may also arrange
2772 for child care by use of contract or vouchers, provide vouchers in
2773 advance to a caretaker relative, reimburse a child care provider,
2774 or use any other arrangement deemed appropriate by the department,
2775 and may establish different reimbursement rates for child care
2776 services depending on the category of the facility or home. Any
2777 center-based or group home child care facility under this
2778 subsection shall be licensed by the Mississippi Department of
2779 Children's Affairs pursuant to law. When child care is being
2780 provided in the child's own home, in the home of a relative of the
2781 child, or in any other unlicensed setting, the provision of such
2782 child care may be monitored on a random basis by the Mississippi
2783 Department of Children's Affairs. Transitional child care
2784 assistance may be continued if it is necessary for parents to
2785 maintain employment once support has ended, unless prohibited
2786 under state or federal law. Transitional child care assistance
2787 may be provided for up to twenty-four (24) months after the last
2788 month during which the family was eligible for TANF assistance, if
2789 federal funds are available for such child care assistance.

2790 (8) The Department of Human Services may provide
2791 transportation or provide reasonable reimbursement for
2792 transportation expenses that are necessary for individuals to be



2793 able to participate in allowable work activity under the TANF
2794 program.

2795 (9) Medicaid assistance shall be provided to a family of
2796 TANF program participants for up to twenty-four (24) consecutive
2797 calendar months following the month in which the participating
2798 family would be ineligible for TANF benefits because of increased
2799 income, expiration of earned income disregards, or increased hours
2800 of employment of the caretaker relative; however, Medicaid
2801 assistance for more than twelve (12) months may be provided only
2802 if a federal waiver is obtained to provide such assistance for
2803 more than twelve (12) months and federal and state funds are
2804 available to provide such assistance.

2805 (10) The department shall require applicants for and
2806 recipients of public assistance from the department to sign a
2807 personal responsibility contract that will require the applicant
2808 or recipient to acknowledge his or her responsibilities to the
2809 state.

2810 (11) The department shall enter into an agreement with the
2811 State Personnel Board and other state agencies that will allow
2812 those TANF participants who qualify for vacant jobs within state
2813 agencies to be placed in state jobs. State agencies participating
2814 in the TANF work program shall receive any and all benefits
2815 received by employers in the private sector for hiring TANF
2816 recipients. This subsection (11) shall be effective only if the
2817 state obtains any necessary federal waiver or approval and if
2818 federal funds are available therefor.

2819 (12) No new TANF program requirement or restriction
2820 affecting a person's eligibility for TANF assistance, or allowable
2821 work activity, which is not mandated by federal law or regulation
2822 may be implemented by the Department of Human Services after the
2823 effective date of this act, unless such is specifically authorized
2824 by an amendment to this section by the Legislature.



2825 **SECTION 66.** Section 43-18-5, Mississippi Code of 1972, is
2826 amended as follows:

2827 43-18-5. As used in paragraph (a) of Article V of the
2828 Interstate Compact on the Placement of Children, the phrase
2829 "appropriate authority in the receiving state" with reference to
2830 this state shall mean the Mississippi Department of Children's
2831 Affairs or * * * any county department of children's affairs.

2832 **SECTION 67.** Section 43-21-105, Mississippi Code of 1972, is
2833 amended as follows:

2834 43-21-105. The following words and phrases, for purposes of
2835 this chapter, shall have the meanings ascribed herein unless the
2836 context clearly otherwise requires:

2837 (a) "Youth court" means the Youth Court Division.

2838 (b) "Judge" means the judge of the Youth Court
2839 Division.

2840 (c) "Designee" means any person that the judge appoints
2841 to perform a duty which this chapter requires to be done by the
2842 judge or his designee. The judge may not appoint a person who is
2843 involved in law enforcement to be his designee.

2844 (d) "Child" and "youth" are synonymous, and each means
2845 a person who has not reached his eighteenth birthday. A child who
2846 has not reached his eighteenth birthday and is on active duty for
2847 a branch of the armed services or is married is not considered a
2848 "child" or "youth" for the purposes of this chapter.

2849 (e) "Parent" means the father or mother to whom the
2850 child has been born, or the father or mother by whom the child has
2851 been legally adopted.

2852 (f) "Guardian" means a court-appointed guardian of the
2853 person of a child.

2854 (g) "Custodian" means any person having the present
2855 care or custody of a child whether such person be a parent or
2856 otherwise.



2857 (h) "Legal custodian" means a court-appointed custodian
2858 of the child.

2859 (i) "Delinquent child" means a child who has reached
2860 his tenth birthday and who has committed a delinquent act.

2861 (j) "Delinquent act" is any act, which if committed by
2862 an adult, is designated as a crime under state or federal law, or
2863 municipal or county ordinance other than offenses punishable by
2864 life imprisonment or death. A delinquent act includes escape from
2865 lawful detention and violations of the Uniform Controlled
2866 Substances Law and violent behavior.

2867 (k) "Child in need of supervision" means a child who
2868 has reached his seventh birthday and is in need of treatment or
2869 rehabilitation because the child:

2870 (i) Is habitually disobedient of reasonable and
2871 lawful commands of his parent, guardian or custodian and is
2872 ungovernable; or

2873 (ii) While being required to attend school,
2874 willfully and habitually violates the rules thereof or willfully
2875 and habitually absents himself therefrom; or

2876 (iii) Runs away from home without good cause; or

2877 (iv) Has committed a delinquent act or acts.

2878 (l) "Neglected child" means a child:

2879 (i) Whose parent, guardian or custodian or any
2880 person responsible for his care or support, neglects or refuses,
2881 when able so to do, to provide for him proper and necessary care
2882 or support, or education as required by law, or medical, surgical,
2883 or other care necessary for his well-being; provided, however, a
2884 parent who withholds medical treatment from any child who in good
2885 faith is under treatment by spiritual means alone through prayer
2886 in accordance with the tenets and practices of a recognized church
2887 or religious denomination by a duly accredited practitioner
2888 thereof shall not, for that reason alone, be considered to be
2889 neglectful under any provision of this chapter; or



2890 (ii) Who is otherwise without proper care,
2891 custody, supervision or support; or

2892 (iii) Who, for any reason, lacks the special care
2893 made necessary for him by reason of his mental condition, whether
2894 said mental condition be mentally retarded or mentally ill; or

2895 (iv) Who, for any reason, lacks the care necessary
2896 for his health, morals or well-being.

2897 (m) "Abused child" means a child whose parent, guardian
2898 or custodian or any person responsible for his care or support,
2899 whether legally obligated to do so or not, has caused or allowed
2900 to be caused upon said child sexual abuse, sexual exploitation,
2901 emotional abuse, mental injury, nonaccidental physical injury or
2902 other maltreatment. Provided, however, that physical discipline,
2903 including spanking, performed on a child by a parent, guardian or
2904 custodian in a reasonable manner shall not be deemed abuse under
2905 this section.

2906 (n) "Sexual abuse" means obscene or pornographic
2907 photographing, filming or depiction of children for commercial
2908 purposes, or the rape, molestation, incest, prostitution or other
2909 such forms of sexual exploitation of children under circumstances
2910 which indicate that the child's health or welfare is harmed or
2911 threatened.

2912 (o) "A child in need of special care" means a child
2913 with any mental or physical illness that cannot be treated with
2914 the dispositional alternatives ordinarily available to the youth
2915 court.

2916 (p) A "dependent child" means any child who is not a
2917 child in need of supervision, a delinquent child, an abused child
2918 or a neglected child, and which child has been voluntarily placed
2919 in the custody of the Mississippi Department of Children's Affairs
2920 by his parent, guardian or custodian.

2921 (q) "Custody" means the physical possession of the
2922 child by any person.



2923 (r) "Legal custody" means the legal status created by a
2924 court order which gives the legal custodian the responsibilities
2925 of physical possession of the child and the duty to provide him
2926 with food, shelter, education and reasonable medical care, all
2927 subject to residual rights and responsibilities of the parent or
2928 guardian of the person.

2929 (s) "Detention" means the care of children in
2930 physically restrictive facilities.

2931 (t) "Shelter" means care of children in physically
2932 nonrestrictive facilities.

2933 (u) "Records involving children" means any of the
2934 following from which the child can be identified:

2935 (i) All youth court records as defined in Section
2936 43-21-251;

2937 (ii) All social records as defined in Section
2938 43-21-253;

2939 (iii) All law enforcement records as defined in
2940 Section 43-21-255;

2941 (iv) All agency records as defined in Section
2942 43-21-257; and

2943 (v) All other documents maintained by any
2944 representative of the state, county, municipality or other public
2945 agency insofar as they relate to the apprehension, custody,
2946 adjudication or disposition of a child who is the subject of a
2947 youth court cause.

2948 (v) "Any person responsible for care or support" means
2949 the person who is providing for the child at a given time. This
2950 term shall include, but is not limited to, stepparents, foster
2951 parents, relatives, nonlicensed babysitters or other similar
2952 persons responsible for a child and staff of residential care
2953 facilities and group homes that are licensed by the Mississippi
2954 Department of Children's Affairs.



2955 (w) The singular includes the plural, the plural the
2956 singular and the masculine the feminine when consistent with the
2957 intent of this chapter.

2958 (x) "Out-of-home" setting means the temporary
2959 supervision or care of children by the staff of licensed day care
2960 centers, the staff of public, private and state schools, the staff
2961 of juvenile detention facilities, the staff of unlicensed
2962 residential care facilities and group homes and the staff of, or
2963 individuals representing, churches, civic or social organizations.

2964 (y) "Durable legal custody" means the legal status
2965 created by a court order which gives the durable legal custodian
2966 the responsibilities of physical possession of the child and the
2967 duty to provide him with care, nurture, welfare, food, shelter,
2968 education and reasonable medical care. All these duties as
2969 enumerated are subject to the residual rights and responsibilities
2970 of the natural parent(s) or guardian(s) of the child or children.

2971 **SECTION 68.** Section 43-21-257, Mississippi Code of 1972, is
2972 amended as follows:

2973 43-21-257. (1) Unless otherwise provided in this section,
2974 any record involving children, including valid and invalid
2975 complaints, and the contents thereof maintained by the Mississippi
2976 Department of Children's Affairs, or any other state agency, shall
2977 be kept confidential and shall not be disclosed except as provided
2978 in Section 43-21-261.

2979 (2) The Division of Youth Services shall maintain a state
2980 central registry containing the number and disposition of all
2981 cases together with such other useful information regarding such
2982 cases as may be requested and is obtainable from the records of
2983 the youth court. The Division of Youth Services shall annually
2984 publish a statistical record of the number and disposition of all
2985 cases, but the names or identity of any children shall not be
2986 disclosed in the reports or records. The Division of Youth
2987 Services shall adopt such rules as may be necessary to carry out



2988 this subsection. The central registry files and the contents
2989 thereof shall be confidential and shall not be open to public
2990 inspection. Any person who shall disclose or encourage the
2991 disclosure of any record involving children from the central
2992 registry shall be subject to the penalty in Section 43-21-267.
2993 The youth court shall furnish, upon forms provided by the Division
2994 of Youth Services, the necessary information, and these completed
2995 forms shall be forwarded to the Division of Youth Services.

2996 (3) The Mississippi Department of Children's Affairs shall
2997 maintain a state central registry on neglect and abuse cases
2998 containing (a) the name, address and age of each child, (b) the
2999 nature of the harm reported, (c) the name and address of the
3000 person responsible for the care of the child, and (d) the name and
3001 address of the substantiated perpetrator of the harm reported.
3002 "Substantiated perpetrator" shall be defined as an individual who
3003 has committed an act(s) of sexual abuse or physical abuse which
3004 would otherwise be deemed as a felony or any child neglect which
3005 would be deemed as a threat to life, as determined upon
3006 investigation by the Division of Family and Children's Services.
3007 "Substantiation" for the purposes of the Mississippi Department of
3008 Human Services Central Registry shall require an adjudication or
3009 criminal conviction. The Mississippi Department of Children's
3010 Affairs shall adopt such rules and administrative procedures,
3011 especially those procedures to afford due process to individuals
3012 who have been named as substantiated perpetrators prior to the
3013 release of their name from the registry, as may be necessary to
3014 carry out this subsection. The central registry shall be
3015 confidential and shall not be open to public inspection. Any
3016 person who shall disclose or encourage the disclosure of any
3017 record involving children from the central registry without
3018 following the rules and administrative procedures of the
3019 department shall be subject to the penalty in Section 43-21-267.
3020 The Mississippi Department of Children's Affairs and its employees



3021 are hereby exempt from any civil liability as a result of any
3022 action taken pursuant to the compilation and/or release of
3023 information on the registry pursuant to this section and any other
3024 applicable section of the code.

3025 (4) The Mississippi State Department of Health may release
3026 the findings of investigations into allegations of abuse within
3027 licensed day care centers made under the provisions of Section
3028 43-21-353(8) to any parent of a child who is enrolled in the day
3029 care center at the time of the alleged abuse or at the time the
3030 request for information is made. The findings of any such
3031 investigation may also be released to parents who are considering
3032 placing children in the day care center. No information
3033 concerning such investigations may contain the names or
3034 identifying information of individual children.

3035 The Department of Health shall not be held civilly liable for
3036 the release of information on any findings, recommendations or
3037 actions taken pursuant to investigations of abuse that have been
3038 conducted pursuant to Section 43-21-353(8).

3039 **SECTION 69.** Section 43-21-261, Mississippi Code of 1972, is
3040 amended as follows:

3041 43-21-261. (1) Except as otherwise provided in this
3042 section, records involving children shall not be disclosed, other
3043 than to necessary staff of the youth court, except pursuant to an
3044 order of the youth court specifying the person or persons to whom
3045 the records may be disclosed, the extent of the records which may
3046 be disclosed and the purpose of the disclosure. Such court orders
3047 for disclosure shall be limited to those instances in which the
3048 youth court concludes, in its discretion, that disclosure is
3049 required for the best interests of the child, the public safety or
3050 the functioning of the youth court and then only to the following
3051 persons:

3052 (a) The judge of another youth court or member of
3053 another youth court staff;



3054 (b) The court of the parties in a child custody or
3055 adoption cause in another court;

3056 (c) A judge of any other court or members of another
3057 court staff;

3058 (d) Representatives of a public or private agency
3059 providing supervision or having custody of the child under order
3060 of the youth court;

3061 (e) Any person engaged in a bona fide research purpose,
3062 provided that no information identifying the subject of the
3063 records shall be made available to the researcher unless it is
3064 absolutely essential to the research purpose and the judge gives
3065 prior written approval, and the child, through his or her
3066 representative, gives permission to release the information;

3067 (f) The Mississippi Employment Security Commission, or
3068 its duly authorized representatives, for the purpose of a child's
3069 enrollment into the Job Corps Training Program as authorized by
3070 Title IV of the Comprehensive Employment Training Act of 1973 (29
3071 USCS Section 923 et seq.). However, no records, reports,
3072 investigations or information derived therefrom pertaining to
3073 child abuse or neglect shall be disclosed; and

3074 (g) To any person pursuant to a finding by a judge of
3075 the youth court of compelling circumstances affecting the health
3076 or safety of a child and that such disclosure is in the best
3077 interests of the child.

3078 Law enforcement agencies may disclose information to the
3079 public concerning the taking of a child into custody for the
3080 commission of a delinquent act without the necessity of an order
3081 from the youth court. The information released shall not identify
3082 the child or his address unless the information involves a child
3083 convicted as an adult.

3084 (2) Any records involving children which are disclosed under
3085 an order of the youth court and the contents thereof shall be kept
3086 confidential by the person or agency to whom the record is



3087 disclosed except as provided in the order. Any further disclosure
3088 of any records involving children shall be made only under an
3089 order of the youth court as provided in this section.

3090 (3) Upon request, the parent, guardian or custodian of the
3091 child who is the subject of a youth court cause or any attorney
3092 for such parent, guardian or custodian, shall have the right to
3093 inspect any record, report or investigation which is to be
3094 considered by the youth court at a hearing, except that the
3095 identity of the reporter shall not be released, nor the name of
3096 any other person where the person or agency making the information
3097 available finds that disclosure of the information would be likely
3098 to endanger the life or safety of such person.

3099 (4) Upon request, the child who is the subject of a youth
3100 court cause shall have the right to have his counsel inspect and
3101 copy any record, report or investigation which is filed with the
3102 youth court.

3103 (5) (a) The youth court prosecutor or prosecutors, the
3104 county attorney, the district attorney, the youth court defender
3105 or defenders, or any attorney representing a child shall have the
3106 right to inspect any law enforcement record involving children.

3107 (b) The Mississippi Department of Children's Affairs
3108 shall disclose to a county prosecuting attorney or district
3109 attorney any and all records resulting from an investigation into
3110 suspected child abuse or neglect when the case has been referred
3111 by the Mississippi Department of Children's Affairs to the county
3112 prosecuting attorney or district attorney for criminal
3113 prosecution.

3114 (c) Agency records made confidential under the
3115 provisions of this section may be disclosed to a court of
3116 competent jurisdiction.

3117 (6) Information concerning an investigation into a report of
3118 child abuse or child neglect may be disclosed by the Mississippi
3119 Department of Children's Affairs without order of the youth court



3120 to any attorney, physician, dentist, intern, resident, nurse,
3121 psychologist, social worker, child care giver, minister, law
3122 enforcement officer, public or private school employee making that
3123 report pursuant to Section 43-21-353(1) if the reporter has a
3124 continuing professional relationship with the child and a need for
3125 such information in order to protect or treat the child.

3126 (7) Information concerning an investigation into a report of
3127 child abuse or child neglect may be disclosed without further
3128 order of the youth court to any interagency child abuse task force
3129 established in any county or municipality by order of the youth
3130 court of that county or municipality.

3131 (8) Names and addresses of juveniles twice adjudicated as
3132 delinquent for an act which would be a felony if committed by an
3133 adult or for the unlawful possession of a firearm shall not be
3134 held confidential and shall be made available to the public.

3135 (9) Names and addresses of juveniles adjudicated as
3136 delinquent for murder, manslaughter, burglary, arson, armed
3137 robbery, aggravated assault, any sex offense as defined in Section
3138 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
3139 violation of Section 63-11-30, shall not be held confidential and
3140 shall be made available to the public.

3141 (10) The judges of the circuit and county courts, and
3142 presentence investigators for the circuit courts, as provided in
3143 Section 47-7-9, shall have the right to inspect any youth court
3144 records of a person convicted of a crime for sentencing purposes
3145 only.

3146 (11) The victim of an offense committed by a child who is
3147 the subject of a youth court cause shall have the right to be
3148 informed of the child's disposition by the youth court.

3149 (12) A classification hearing officer of the State
3150 Department of Corrections, as provided in Section 47-5-103, shall
3151 have the right to inspect any youth court records, excluding abuse
3152 and neglect records, of any offender in the custody of the



3153 department who as a child or minor was a juvenile offender or was
3154 the subject of a youth court cause of action, and the State Parole
3155 Board, as provided in Section 47-7-17, shall have the right to
3156 inspect such records when said offender becomes eligible for
3157 parole.

3158 (13) The youth court shall notify the Department of Public
3159 Safety of the name, and any other identifying information such
3160 department may require, of any child who is adjudicated delinquent
3161 as a result of a violation of the Uniform Controlled Substances
3162 Law.

3163 (14) The Administrative Office of Courts shall have the
3164 right to inspect any youth court records in order that the number
3165 of youthful offenders, abused, neglected, truant and dependent
3166 children, as well as children in need of special care and children
3167 in need of supervision, may be tracked with specificity through
3168 the youth court and adult justice system, and to utilize tracking
3169 forms for such purpose.

3170 (15) Upon a request by a youth court, the Administrative
3171 Office of Courts shall disclose all information at its disposal
3172 concerning any previous youth court intakes alleging that a child
3173 was a delinquent child, child in need of supervision, child in
3174 need of special care, truant child, abused child or neglected
3175 child, as well as any previous youth court adjudications for the
3176 same and all dispositional information concerning a child who at
3177 the time of such request comes under the jurisdiction of the youth
3178 court making such request.

3179 (16) In every case where an abuse or neglect allegation has
3180 been made, the confidentiality provisions of this section shall
3181 not apply to prohibit access to a child's records by any state
3182 regulatory agency, any state or local prosecutorial agency or law
3183 enforcement agency; provided, however, that no identifying
3184 information concerning the child in question may be released to
3185 the public by such agency except as otherwise provided herein.



3186 (17) In every case where there is any indication or
3187 suggestion of either abuse or neglect and a child's physical
3188 condition is medically labeled as medically "serious" or
3189 "critical" or a child dies, the confidentiality provisions of this
3190 section shall not apply. In cases of child deaths, the following
3191 information may be released by the Mississippi Department of Human
3192 Services: (a) Child's name; (b) address or location; (c)
3193 verification from the Department of Human Services of case status
3194 (no case or involvement, case exists, open or active case, case
3195 closed); (d) if a case exists, the type of report or case
3196 (physical abuse, neglect, etc.), date of intake(s) and
3197 investigation(s), and case disposition (substantiated or
3198 unsubstantiated). Notwithstanding the aforesaid, the
3199 confidentiality provisions of this section shall continue if there
3200 is a pending or planned investigation by any local, state or
3201 federal governmental agency or institution.

3202 (18) Any member of a foster care review board designated by
3203 the Mississippi Department of Children's Affairs shall have the
3204 right to inspect youth court records relating to the abuse,
3205 neglect or child in need of supervision cases assigned to such
3206 member for review.

3207 (19) Information concerning an investigation into a report
3208 of child abuse or child neglect may be disclosed without further
3209 order of the youth court in any administrative or due process
3210 hearing held, pursuant to Section 43-21-257, by the Mississippi
3211 Department of Children's Affairs for individuals whose names will
3212 be placed on the central registry as substantiated perpetrators.

3213 **SECTION 70.** Section 43-21-315, Mississippi Code of 1972, is
3214 amended as follows:

3215 43-21-315. (1) The youth court shall, by general order or
3216 rule of court, designate the available detention or shelter
3217 facilities to which children shall be delivered when taken into
3218 custody. Copies of the order or rule shall be made available to



3219 the Mississippi Department of Children's Affairs and all law
3220 enforcement agencies within the territorial jurisdiction of the
3221 youth court.

3222 (2) Except as otherwise provided in this chapter, unless
3223 jurisdiction is transferred, no child shall be placed in any jail
3224 or place of detention of adults by any person or court unless the
3225 child shall be physically segregated from other persons not
3226 subject to the jurisdiction of the youth court and the physical
3227 arrangement of such jail or place of detention of adults prevents
3228 such child from having substantial contact with and substantial
3229 view of such other persons; but in any event, the child shall not
3230 be confined anywhere in the same cell with persons not subject to
3231 the jurisdiction of the youth court. Any order placing a child
3232 into custody shall comply with the detention requirements provided
3233 in Section 43-21-301(6). This subsection shall not be construed
3234 to apply to commitments to the training school under Section
3235 43-21-605(1)(g)(iii).

3236 (3) Any child who is charged with a hunting or fishing
3237 violation, a traffic violation, or any other criminal offense for
3238 which the youth court shall have power on its own motion to remove
3239 jurisdiction from any criminal court, may be detained only in the
3240 same facilities designated by the youth court for children within
3241 the jurisdiction of the youth court.

3242 (4) After a child is ordered into custody, the youth court
3243 may arrange for the custody of the child with any private
3244 institution or agency caring for children, may commit the child to
3245 the Department of Mental Health pursuant to Section 41-21-61 et
3246 seq., or may order the Mississippi Department of Children's
3247 Affairs or any other public agency to provide for the custody,
3248 care and maintenance of such child. Provided, however, that the
3249 care, custody and maintenance of such child shall be within the
3250 statutory authorization and the budgetary means of such
3251 institution or facility.



3252 **SECTION 71.** Section 43-21-353, Mississippi Code of 1972, is
3253 amended as follows:

3254 43-21-353. (1) Any attorney, physician, dentist, intern,
3255 resident, nurse, psychologist, social worker, child care giver,
3256 minister, law enforcement officer, public or private school
3257 employee or any other person having reasonable cause to suspect
3258 that a child is a neglected child or an abused child, shall cause
3259 an oral report to be made immediately by telephone or otherwise
3260 and followed as soon thereafter as possible by a report in writing
3261 to the Mississippi Department of Children's Affairs, and
3262 immediately a referral shall be made by the Mississippi Department
3263 of Children's Affairs to the youth court intake unit, which unit
3264 shall promptly comply with Section 43-21-357. Where appropriate,
3265 the Mississippi Department of Children's Affairs shall
3266 additionally make a referral to the youth court prosecutor. Upon
3267 receiving a report that a child has been sexually abused, or
3268 burned, tortured, mutilated or otherwise physically abused in such
3269 a manner as to cause serious bodily harm, or upon receiving any
3270 report of abuse that would be a felony under state or federal law,
3271 the Mississippi Department of Children's Affairs shall immediately
3272 notify the law enforcement agency in whose jurisdiction the abuse
3273 occurred and shall notify the appropriate prosecutor within
3274 forty-eight (48) hours, and the Mississippi Department of
3275 Children's Affairs shall have the duty to provide the law
3276 enforcement agency all the names and facts known at the time of
3277 the report; this duty shall be of a continuing nature. The law
3278 enforcement agency and the Mississippi Department of Children's
3279 Affairs shall investigate the reported abuse immediately and shall
3280 file a preliminary report with the appropriate prosecutor's office
3281 within twenty-four (24) hours and shall make additional reports as
3282 new or additional information or evidence becomes available. The
3283 Mississippi Department of Children's Affairs shall advise the
3284 clerk of the youth court and the youth court prosecutor of all



3285 cases of abuse reported to the department within seventy-two (72)
3286 hours and shall update such report as information becomes
3287 available.

3288 (2) Any report to the Mississippi Department of Children's
3289 Affairs shall contain the names and addresses of the child and his
3290 parents or other persons responsible for his care, if known, the
3291 child's age, the nature and extent of the child's injuries,
3292 including any evidence of previous injuries and any other
3293 information that might be helpful in establishing the cause of the
3294 injury and the identity of the perpetrator.

3295 (3) The Mississippi Department of Children's Affairs shall
3296 maintain a statewide incoming wide-area telephone service or
3297 similar service for the purpose of receiving reports of suspected
3298 cases of child abuse; provided that any attorney, physician,
3299 dentist, intern, resident, nurse, psychologist, social worker,
3300 child care giver, minister, law enforcement officer or public or
3301 private school employee who is required to report under subsection
3302 (1) of this section shall report in the manner required in
3303 subsection (1).

3304 (4) Reports of abuse and neglect made under this chapter and
3305 the identity of the reporter are confidential except when the
3306 court in which the investigation report is filed, in its
3307 discretion, determines the testimony of the person reporting to be
3308 material to a judicial proceeding or when the identity of the
3309 reporter is released to law enforcement agencies and the
3310 appropriate prosecutor pursuant to subsection (1). Reports made
3311 under this section to any law enforcement agency or prosecutorial
3312 officer are for the purpose of criminal investigation and
3313 prosecution only and no information from these reports may be
3314 released to the public except as provided by Section 43-21-261.
3315 Disclosure of any information by the prosecutor shall be according
3316 to the Mississippi Uniform Rules of Circuit and County Court
3317 Procedure. The identity of the reporting party shall not be



3318 disclosed to anyone other than law enforcement officers or
3319 prosecutors without an order from the appropriate youth court.
3320 Any person disclosing any reports made under this section in a
3321 manner not expressly provided for in this section or Section
3322 43-21-261, shall be guilty of a misdemeanor and subject to the
3323 penalties prescribed by Section 43-21-267.

3324 (5) All final dispositions of law enforcement investigations
3325 described in subsection (1) of this section shall be determined
3326 only by the appropriate prosecutor or court. All final
3327 dispositions of investigations by the Mississippi Department of
3328 Children's Affairs as described in subsection (1) of this section
3329 shall be determined only by the youth court. Reports made under
3330 subsection (1) of this section by the Mississippi Department of
3331 Children's Affairs to the law enforcement agency and to the
3332 district attorney's office shall include the following, if known
3333 to the department:

3334 (a) The name and address of the child;
3335 (b) The names and addresses of the parents;
3336 (c) The name and address of the suspected perpetrator;
3337 (d) The names and addresses of all witnesses, including
3338 the reporting party if a material witness to the abuse;

3339 (e) A brief statement of the facts indicating that the
3340 child has been abused and any other information from the agency
3341 files or known to the social worker making the investigation,
3342 including medical records or other records, which may assist law
3343 enforcement or the district attorney in investigating and/or
3344 prosecuting the case; and

3345 (f) What, if any, action is being taken by the
3346 Mississippi Department of Children's Affairs.

3347 (6) In any investigation of a report made under this chapter
3348 of the abuse or neglect of a child as defined in Section
3349 43-21-105(m), the Mississippi Department of Children's Affairs may
3350 request the appropriate law enforcement officer with jurisdiction



3351 to accompany the department in its investigation, and in such
3352 cases the law enforcement officer shall comply with such request.

3353 (7) Anyone who willfully violates any provision of this
3354 section shall be, upon being found guilty, punished by a fine not
3355 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
3356 jail not to exceed one (1) year, or both.

3357 (8) If a report is made directly to the Mississippi
3358 Department of Children's Affairs that a child has been abused or
3359 neglected in an out-of-home setting, a referral shall be made
3360 immediately to the law enforcement agency in whose jurisdiction
3361 the abuse occurred and the department shall notify the district
3362 attorney's office within forty-eight (48) hours of such report.
3363 The Mississippi Department of Children's Affairs shall investigate
3364 the out-of-home setting report of abuse or neglect to determine
3365 whether the child who is the subject of the report, or other
3366 children in the same environment, comes within the jurisdiction of
3367 the youth court and shall report to the youth court the
3368 department's findings and recommendation as to whether the child
3369 who is the subject of the report or other children in the same
3370 environment require the protection of the youth court. The law
3371 enforcement agency shall investigate the reported abuse
3372 immediately and shall file a preliminary report with the district
3373 attorney's office within forty-eight (48) hours and shall make
3374 additional reports as new information or evidence becomes
3375 available. If the out-of-home setting is a licensed facility, an
3376 additional referral shall be made by the Mississippi Department of
3377 Children's Affairs to the licensing agency. The licensing agency
3378 shall investigate the report and shall provide the Mississippi
3379 Department of Children's Affairs, the law enforcement agency and
3380 the district attorney's office with their written findings from
3381 such investigation as well as that licensing agency's
3382 recommendations and actions taken.



3383 **SECTION 72.** Section 43-21-354, Mississippi Code of 1972, is
3384 amended as follows:

3385 43-21-354. The statewide incoming wide area telephone
3386 service established pursuant to Section 43-21-353, Mississippi
3387 Code of 1972, shall be maintained by the Mississippi Department of
3388 Children's Affairs, or its successor, on a twenty-four-hour, seven
3389 (7) days a week basis.

3390 **SECTION 73.** Section 43-21-357, Mississippi Code of 1972, is
3391 amended as follows:

3392 43-21-357. (1) After receiving a report, the youth court
3393 intake unit shall promptly make a preliminary inquiry to determine
3394 whether the interest of the child, other children in the same
3395 environment or the public requires the youth court to take further
3396 action. As part of the preliminary inquiry, the youth court
3397 intake unit may request or the youth court may order the
3398 Mississippi Department of Children's Affairs, the Division of
3399 Youth Services, any successor agency or any other qualified public
3400 employee to make an investigation or report concerning the child
3401 and any other children in the same environment, and present the
3402 findings thereof to the youth court intake unit. If the youth
3403 court intake unit receives a neglect or abuse report, the youth
3404 court intake unit shall immediately forward the complaint to the
3405 Mississippi Department of Children's Affairs to promptly make an
3406 investigation or report concerning the child and any other
3407 children in the same environment and promptly present the findings
3408 thereof to the youth court intake unit. If it appears from the
3409 preliminary inquiry that the child or other children in the same
3410 environment are within the jurisdiction of the court, the youth
3411 court intake unit shall recommend to the youth court:

- 3412 (a) That the youth court take no action;
3413 (b) That an informal adjustment be made;



3414 (c) The Mississippi Department of Children's
3415 Affairs * * * monitor the child, family and other children in the
3416 same environment;

3417 (d) That the child is warned or counseled informally;
3418 or

3419 (e) That a petition be filed.

3420 (2) The youth court shall then, without a hearing:

3421 (a) Order that no action be taken;

3422 (b) Order that an informal adjustment be made;

3423 (c) Order that the Mississippi Department of Children's
3424 Affairs, Division of Family and Children Services, monitor the
3425 child, family and other children in the same environment;

3426 (d) Order that the child is warned or counseled
3427 informally; or

3428 (e) Order that a petition be filed.

3429 (3) If the preliminary inquiry discloses that a child needs
3430 emergency medical treatment, the judge may order the necessary
3431 treatment.

3432 **SECTION 74.** Section 43-21-405, Mississippi Code of 1972, is
3433 amended as follows:

3434 43-21-405. (1) The informal adjustment process shall be
3435 initiated with an informal adjustment conference conducted by an
3436 informal adjustment counselor appointed by the judge or his
3437 designee.

3438 (2) If the child and his parent, guardian or custodian
3439 appear at the informal adjustment conference without counsel, the
3440 informal adjustment counselor shall, at the commencement of the
3441 conference, inform them of their right to counsel, the child's
3442 right to appointment of counsel and the right of the child to
3443 remain silent. If either the child or his parent, guardian or
3444 custodian indicates a desire to be represented by counsel, the
3445 informal adjustment counselor shall adjourn the conference to
3446 afford an opportunity to secure counsel.



3447 (3) At the beginning of the informal adjustment conference,
3448 the informal adjustment counselor shall inform the child and his
3449 parent, guardian or custodian:

3450 (a) That information has been received concerning the
3451 child which appears to establish jurisdiction of the youth court;

3452 (b) The purpose of the informal adjustment conference;

3453 (c) That during the informal adjustment process no
3454 petition will be filed;

3455 (d) That the informal adjustment process is voluntary
3456 with the child and his parent, guardian or custodian and that they
3457 may withdraw from the informal adjustment at any time; and

3458 (e) The circumstances under which the informal
3459 adjustment process can be terminated under Section 43-21-407.

3460 (4) The informal adjustment counselor shall then discuss
3461 with the child and his parent, guardian or custodian:

3462 (a) Recommendations for actions or conduct in the
3463 interest of the child to correct the conditions of behavior or
3464 environment which may exist;

3465 (b) Continuing conferences and contacts with the child
3466 and his parent, guardian or custodian by the informal adjustment
3467 counselor or other authorized persons; and

3468 (c) The child's general behavior, his home and school
3469 environment and other factors bearing upon the proposed informal
3470 adjustment.

3471 (5) After the parties have agreed upon the appropriate terms
3472 and conditions of informal adjustment, the informal adjustment
3473 counselor and the child and his parent, guardian or custodian
3474 shall sign a written informal adjustment agreement setting forth
3475 the terms and conditions of the informal adjustment. The informal
3476 adjustment agreement may be modified at any time upon the consent
3477 of all parties to the informal adjustment conference.

3478 (6) The informal adjustment process shall not continue
3479 beyond a period of six (6) months from its commencement unless



3480 extended by the youth court for an additional period not to exceed
3481 six (6) months by court authorization prior to the expiration of
3482 the original six-month period. In no event shall the custody or
3483 supervision of a child which has been placed with the Mississippi
3484 Department of Children's Affairs be continued or extended except
3485 upon a written finding by the youth court judge or referee that
3486 reasonable efforts have been made to maintain the child within his
3487 own home, but that the circumstances warrant his removal and there
3488 is no reasonable alternative to custody, and that reasonable
3489 efforts will continue to be made towards reunification of the
3490 family.

3491 **SECTION 75.** Section 43-21-603, Mississippi Code of 1972, is
3492 amended as follows:

3493 43-21-603. (1) At the beginning of each disposition
3494 hearing, the judge shall inform the parties of the purpose of the
3495 hearing.

3496 (2) All testimony shall be under oath unless waived by all
3497 parties and may be in narrative form. The court may consider any
3498 evidence which is material and relevant to the disposition of the
3499 cause, including hearsay and opinion evidence. At the conclusion
3500 of the evidence, the youth court shall give the parties an
3501 opportunity to present oral argument.

3502 (3) If the child has been adjudicated a delinquent child,
3503 prior to entering a disposition order, the youth court should
3504 consider, among others, the following relevant factors:

- 3505 (a) The nature of the offense;
- 3506 (b) The manner in which the offense was committed;
- 3507 (c) The nature and number of a child's prior
3508 adjudicated offenses; and
- 3509 (d) The child's need for care and assistance.

3510 (4) If the child has been adjudicated a child in need of
3511 supervision, prior to entering a disposition order, the youth



3512 court should consider, among others, the following relevant
3513 factors:

- 3514 (a) The nature and history of the child's conduct;
- 3515 (b) The family and home situation; and
- 3516 (c) The child's need of care and assistance.

3517 (5) If the child has been adjudicated a neglected child or
3518 an abused child, prior to entering a disposition order, the youth
3519 court shall consider, among others, the following relevant
3520 factors:

- 3521 (a) The child's physical and mental conditions;
- 3522 (b) The child's need of assistance;
- 3523 (c) The manner in which the parent, guardian or
3524 custodian participated in, tolerated or condoned the abuse,
3525 neglect or abandonment of the child;

3526 (d) The ability of a child's parent, guardian or
3527 custodian to provide proper supervision and care of a child; and

3528 (e) Relevant testimony and recommendations, where
3529 available, from the foster parent of the child, the grandparents
3530 of the child, the guardian ad litem of the child, representatives
3531 of any private care agency which has cared for the child, the
3532 social worker assigned to the case, and any other relevant
3533 testimony pertaining to the case.

3534 (6) After consideration of all the evidence and the relevant
3535 factors, the youth court shall enter a disposition order which
3536 shall not recite any of the facts or circumstances upon which such
3537 disposition is based, nor shall it recite that a child has been
3538 found guilty; but it shall recite that a child is found to be a
3539 delinquent child, a child in need of supervision, a neglected
3540 child or an abused child.

3541 (7) In the event that the youth court orders that the
3542 custody or supervision of a child who has been adjudicated abused
3543 or neglected be placed with the Mississippi Department of
3544 Children's Affairs or any other person or public or private



3545 agency, other than the child's parent, guardian or custodian, the
3546 youth court shall find and the disposition order shall recite
3547 that:

3548 (a) (i) Reasonable efforts have been made to maintain
3549 the child within his own home, but that the circumstances warrant
3550 his removal and there is no reasonable alternative to custody; or

3551 (ii) The circumstances are of such an emergency
3552 nature that no reasonable efforts have been made to maintain the
3553 child within his own home, and that there is no reasonable
3554 alternative to custody; and

3555 (b) That the effect of the continuation of the child's
3556 residence within his own home would be contrary to the welfare of
3557 the child and that the placement of the child in foster care is in
3558 the best interests of the child; or

3559 (c) Reasonable efforts to maintain the child within his
3560 home shall not be required if the court determines that:

3561 (i) The parent has subjected the child to
3562 aggravated circumstances including, but not limited to,
3563 abandonment, torture, chronic abuse and sexual abuse; or

3564 (ii) The parent has been convicted of murder of
3565 another child of such parent, voluntary manslaughter of another
3566 child of such parent, aided or abetted, attempted, conspired or
3567 solicited to commit such murder or voluntary manslaughter, or a
3568 felony assault that results in the serious bodily injury to the
3569 surviving child or another child of such parent; or

3570 (iii) The parental rights of the parent to a
3571 sibling have been terminated involuntarily; and

3572 (iv) That the effect of the continuation of the
3573 child's residence within his own home would be contrary to the
3574 welfare of the child and that placement of the child in foster
3575 care is in the best interests of the child.



3576 Once the reasonable efforts requirement is bypassed, the
3577 court shall have a permanency hearing pursuant to Section
3578 43-21-613 within thirty (30) days of such finding.

3579 (8) Upon a written motion by a party, the youth court shall
3580 make written findings of fact and conclusions of law upon which it
3581 relies for the disposition order.

3582 **SECTION 76.** Section 43-21-605, Mississippi Code of 1972, is
3583 amended as follows:

3584 43-21-605. (1) In delinquency cases, the disposition order
3585 may include any of the following alternatives:

3586 (a) Release the child without further action;

3587 (b) Place the child in the custody of the parents, a
3588 relative or other persons subject to any conditions and
3589 limitations, including restitution, as the youth court may
3590 prescribe;

3591 (c) Place the child on probation subject to any
3592 reasonable and appropriate conditions and limitations, including
3593 restitution, as the youth court may prescribe;

3594 (d) Order terms of treatment calculated to assist the
3595 child and the child's parents or guardian which are within the
3596 ability of the parent or guardian to perform;

3597 (e) Order terms of supervision which may include
3598 participation in a constructive program of service or education or
3599 civil fines not in excess of Five Hundred Dollars (\$500.00), or
3600 restitution not in excess of actual damages caused by the child to
3601 be paid out of his own assets or by performance of services
3602 acceptable to the victims and approved by the youth court and
3603 reasonably capable of performance within one (1) year;

3604 (f) Suspend the child's driver's license by taking and
3605 keeping it in custody of the court for not more than one (1) year;

3606 (g) Give legal custody of the child to any of the
3607 following:



3608 (i) The Mississippi Department of Children's
3609 Affairs for appropriate placement; or

3610 (ii) Any public or private organization,
3611 preferably community-based, able to assume the education, care and
3612 maintenance of the child, which has been found suitable by the
3613 court; or

3614 (iii) The Mississippi Department of Children's
3615 Affairs for placement in a wilderness training program or a
3616 state-supported training school, except that no child under the
3617 age of ten (10) years shall be committed to a state training
3618 school. The training school may retain custody of the child until
3619 the child's twentieth birthday but for no longer. The
3620 superintendent of a state training school may parole a child at
3621 any time he may deem it in the best interest and welfare of such
3622 child. Twenty (20) days prior to such parole, the training school
3623 shall notify the committing court of the pending release. The
3624 youth court may then arrange subsequent placement after a
3625 reconvened disposition hearing except that the youth court may not
3626 recommit the child to the training school or any other secure
3627 facility without an adjudication of a new offense or probation or
3628 parole violation. Prior to assigning the custody of any child to
3629 any private institution or agency, the youth court through its
3630 designee shall first inspect the physical facilities to determine
3631 that they provide a reasonable standard of health and safety for
3632 the child. The youth court shall not place a child in the custody
3633 of a state training school for truancy, unless such child has been
3634 adjudicated to have committed an act of delinquency in addition to
3635 truancy;

3636 (h) Recommend to the child and the child's parents or
3637 guardian that the child attend and participate in the Youth
3638 Challenge Program under the Mississippi National Guard, as created
3639 in Section 43-27-203, subject to the selection of the child for
3640 the program by the National Guard; however, the child must



3641 volunteer to participate in the program. The youth court may not
3642 order any child to apply or attend the program;

3643 (i) (i) Adjudicate the juvenile to the Statewide
3644 Juvenile Work Program if the program is established in the court's
3645 jurisdiction. The juvenile and his parents or guardians must sign
3646 a waiver of liability in order to participate in the work program.
3647 The judge will coordinate with the youth services counselors as to
3648 placing participants in the work program;

3649 (ii) The severity of the crime, whether or not the
3650 juvenile is a repeat offender or is a felony offender will be
3651 taken into consideration by the judge when adjudicating a juvenile
3652 to the work program. The juveniles adjudicated to the work
3653 program will be supervised by police officers or reserve officers.
3654 The term of service will be from twenty-four (24) to one hundred
3655 twenty (120) hours of community service. A juvenile will work the
3656 hours to which he was adjudicated on the weekends during school
3657 and week days during the summer. Parents are responsible for a
3658 juvenile reporting for work. Noncompliance with an order to
3659 perform community service will result in a heavier adjudication.
3660 A juvenile may be adjudicated to the community service program
3661 only two (2) times;

3662 (iii) The judge shall assess an additional fine on
3663 the juvenile which will be used to pay the costs of implementation
3664 of the program and to pay for supervision by police officers and
3665 reserve officers. The amount of the fine will be based on the
3666 number of hours to which the juvenile has been adjudicated;

3667 (j) Order the child to participate in a youth court
3668 work program as provided in Section 43-21-627; or

3669 (k) Order the child into a juvenile detention center
3670 operated by the county or into a juvenile detention center
3671 operated by any county with which the county in which the court is
3672 located has entered into a contract for the purpose of housing
3673 delinquents. The time period for such detention cannot exceed



3674 ninety (90) days. The youth court judge may order that the number
3675 of days specified in the detention order be served either
3676 throughout the week or on weekends only.

3677 (2) In addition to any of the disposition alternatives
3678 authorized under subsection (1) of this section, the disposition
3679 order in any case in which the child is adjudicated delinquent for
3680 an offense under Section 63-11-30 shall include an order denying
3681 the driver's license and driving privileges of the child as
3682 required under subsection (8) of Section 63-11-30.

3683 (3) Fines levied under this chapter shall be paid into the
3684 general fund of the county but, in those counties wherein the
3685 youth court is a branch of the municipal government, it shall be
3686 paid into the municipal treasury.

3687 (4) Any institution or agency to which a child has been
3688 committed shall give to the youth court any information concerning
3689 the child as the youth court may at any time require.

3690 (5) The youth court shall not place a child in another
3691 school district who has been expelled from a school district for
3692 the commission of a violent act. For the purpose of this
3693 subsection, "violent act" means any action which results in death
3694 or physical harm to another or an attempt to cause death or
3695 physical harm to another.

3696 (6) The youth court may require drug testing as part of a
3697 disposition order. If a child tests positive, the court may
3698 require treatment, counseling and random testing, as it deems
3699 appropriate. The costs of such tests shall be paid by the parent,
3700 guardian or custodian of the child unless the court specifically
3701 finds that the parent, guardian or custodian is unable to pay.

3702 **SECTION 77.** Section 43-21-607, Mississippi Code of 1972, is
3703 amended as follows:

3704 43-21-607. (1) In children in need of supervision cases,
3705 the disposition order may include any of the following



3706 alternatives or combination of the following alternatives, giving
3707 precedence in the following sequence:

3708 (a) Release the child without further action;

3709 (b) Place the child in the custody of the parent, a
3710 relative or other person subject to any conditions and limitations
3711 as the youth court may prescribe;

3712 (c) Place the child under youth court supervision
3713 subject to any conditions and limitations the youth court may
3714 prescribe;

3715 (d) Order terms of treatment calculated to assist the
3716 child and the child's parent, guardian or custodian which are
3717 within the ability of the parent, guardian or custodian to
3718 perform;

3719 (e) Order terms of supervision which may include
3720 participation in a constructive program of service or education or
3721 restitution not in excess of actual damages caused by the child to
3722 be paid out of his own assets or by performance of services
3723 acceptable to the parties and reasonably capable of performance
3724 within one (1) year;

3725 (f) Give legal custody of the child to any of the
3726 following but in no event to any state training school;

3727 (i) The Mississippi Department of Children's
3728 Affairs for appropriate placement which may include a wilderness
3729 training program; or

3730 (ii) Any private or public organization,
3731 preferably community-based, able to assume the education, care and
3732 maintenance of the child, which has been found suitable by the
3733 court. Prior to assigning the custody of any child to any private
3734 institution or agency, the youth court through its designee shall
3735 first inspect the physical facilities to determine that they
3736 provide a reasonable standard of health and safety for the child;
3737 or



3738 (g) Order the child to participate in a youth court
3739 work program as provided in Section 43-21-627.

3740 (2) The court may order drug testing as provided in Section
3741 43-21-605(6).

3742 **SECTION 78.** Section 43-21-609, Mississippi Code of 1972, is
3743 amended as follows:

3744 43-21-609. In neglect and abuse cases, the disposition order
3745 may include any of the following alternatives, giving precedence
3746 in the following sequence:

3747 (a) Release the child without further action;

3748 (b) Place the child in the custody of his parents, a
3749 relative or other person subject to any conditions and limitations
3750 as the court may prescribe. If the court finds that temporary
3751 relative placement, adoption or foster care placement is
3752 inappropriate, unavailable or otherwise not in the best interest
3753 of the child, durable legal custody may be granted by the court to
3754 any person subject to any limitations and conditions the court may
3755 prescribe; such durable legal custody will not take effect unless
3756 the child or children have been in the physical custody of the
3757 proposed durable custodians for at least one (1) year under the
3758 supervision of the Mississippi Department of Children's Affairs.
3759 The requirements of Section 43-21-613 as to disposition review
3760 hearings does not apply to those matters in which the court has
3761 granted durable legal custody. In such cases, the Mississippi
3762 Department of Children's Affairs shall be released from any
3763 oversight or monitoring responsibilities;

3764 (c) Order terms of treatment calculated to assist the
3765 child and the child's parent, guardian or custodian which are
3766 within the ability of the parent, guardian or custodian to
3767 perform;

3768 (d) Order youth court personnel, the Mississippi
3769 Department of Children's Affairs or child care agencies to assist
3770 the child and the child's parent, guardian or custodian to secure



3771 social or medical services to provide proper supervision and care
3772 of the child;

3773 (e) Give legal custody of the child to any of the
3774 following but in no event to any state training school:

3775 (i) The Mississippi Department of Children's
3776 Affairs for appropriate placement; or

3777 (ii) Any private or public organization,
3778 preferably community-based, able to assume the education, care and
3779 maintenance of the child, which has been found suitable by the
3780 court. Prior to assigning the custody of any child to any private
3781 institution or agency, the youth court through its designee shall
3782 first inspect the physical facilities to determine that they
3783 provide a reasonable standard of health and safety for the child.

3784 **SECTION 79.** Section 43-21-613, Mississippi Code of 1972, is
3785 amended as follows:

3786 43-21-613. (1) If the youth court finds, after a hearing
3787 which complies with the sections governing adjudicatory hearings,
3788 that the terms of a delinquency or child in need of supervision
3789 disposition order, probation or parole have been violated, the
3790 youth court may, in its discretion, revoke the original
3791 disposition and make any disposition which it could have
3792 originally ordered. The hearing shall be initiated by the filing
3793 of a petition which complies with the sections governing petitions
3794 in this chapter and which includes a statement of the youth
3795 court's original disposition order, probation or parole, the
3796 alleged violation of that order, probation or parole, and the
3797 facts which show the violation of that order, probation or parole.
3798 Summons shall be served in the same manner as summons for an
3799 adjudicatory hearing.

3800 (2) On motion of a child or a child's parent, guardian or
3801 custodian, the youth court may, in its discretion, conduct an
3802 informal hearing to review the disposition order. If the youth
3803 court finds a material change of circumstances relating to the



3804 disposition of the child, the youth court may modify the
3805 disposition order to any appropriate disposition of equal or
3806 greater precedence which the youth court could have originally
3807 ordered.

3808 (3) (a) Unless the youth court's jurisdiction has been
3809 terminated, all disposition orders for supervision, probation or
3810 placement of a child with an individual or an agency shall be
3811 reviewed by the youth court judge or referee at least annually to
3812 determine if continued placement, probation or supervision is in
3813 the best interest of the child or the public. For children who
3814 have been adjudicated abused or neglected, the youth court shall
3815 conduct a permanency hearing within twelve (12) months after the
3816 earlier of:

3817 (i) An adjudication that the child has been abused
3818 or neglected; or

3819 (ii) Sixty (60) days from the child's removal from
3820 the allegedly abusive or neglectful custodian/parent. Notice of
3821 such hearing shall be given in accordance with the provisions of
3822 Section 43-21-505(5). In conducting the hearing, the judge or
3823 referee may require a written report, information or statements
3824 from the child's youth court counselor, parent, guardian or
3825 custodian which includes, but is not limited to, an evaluation of
3826 the child's progress and recommendations for further supervision
3827 or treatment. The judge or referee shall, at the permanency
3828 hearing determine the future status of the child, including, but
3829 not limited to, whether the child should be returned to the
3830 parent(s) or placed with suitable relatives, placed for adoption,
3831 placed for the purpose of establishing durable legal custody or
3832 should, because of the child's special needs or circumstances, be
3833 continued in foster care on a permanent or long-term basis. If
3834 the child is in an out-of-state placement, the hearing shall
3835 determine whether the out-of-state placement continues to be
3836 appropriate and in the best interest of the child. The judge or



3837 referee may find that reasonable efforts to maintain the child
3838 within his home shall not be required in accordance with Section
3839 43-21-603(7)(c).

3840 (b) The court may find that the filing of a termination
3841 of parental rights petition is not in the child's best interest
3842 if:

3843 (i) The child is being cared for by a relative;
3844 and/or

3845 (ii) The Mississippi Department of Children's
3846 Affairs has documented compelling and extraordinary reasons why
3847 termination of parental rights would not be in the best interests
3848 of the child.

3849 (c) (i) In the event that the youth court either
3850 orders or continues the custody or supervision of a child to be
3851 placed with the Mississippi Department of Children's Affairs or
3852 any other person or public or private agency, other than the
3853 child's parent, guardian or custodian, unless the reasonable
3854 efforts requirement is bypassed under Section 43-21-603(7)(c), the
3855 youth court shall find and the order shall recite that the effect
3856 of the continuation of the child's residence within his own home
3857 would be contrary to the welfare of the child and that placement
3858 or continued placement of the child in foster care is in the best
3859 interest of the child, and that:

3860 1. Reasonable efforts have been made to
3861 maintain the child within his own home, but that the circumstances
3862 warrant his removal and there is no reasonable alternative to
3863 custody; or

3864 2. The circumstances are of such an emergency
3865 nature that no reasonable efforts have been made to maintain the
3866 child within his own home, and that there is no reasonable
3867 alternative to custody.

3868 (ii) The youth court also shall find and the order
3869 shall recite that:



3870 1. Reasonable efforts were made to reunify
3871 the child safely with his family if the removal could not be
3872 prevented; or

3873 2. If reasonable efforts were not made to
3874 prevent the child's removal from home or to reunify the child with
3875 his family, that reasonable efforts are or were not required; or

3876 3. If the permanent plan for the child is
3877 adoption, guardianship, or some other permanent living arrangement
3878 other than reunification, that reasonable efforts were made to
3879 make and finalize that alternate permanent placement.

3880 (d) The provisions of this subsection shall also apply
3881 to review of cases involving a dependent child; however, such
3882 reviews shall take place not less frequently than once each one
3883 hundred eighty (180) days. A dependent child shall be ordered by
3884 the youth court judge or referee to be returned to the custody and
3885 home of the child's parent, guardian or custodian unless the judge
3886 or referee, upon such review, makes a written finding that the
3887 return of the child to the home would be contrary to the child's
3888 best interests.

3889 (e) Reviews are not to be conducted unless explicitly
3890 ordered by the youth court concerning those cases in which the
3891 court has granted durable legal custody. In such cases, the
3892 Mississippi Department of Children's Affairs shall be released
3893 from any oversight or monitoring responsibilities, and relieved of
3894 physical and legal custody and supervision of the child.

3895 **SECTION 80.** Section 43-21-623, Mississippi Code of 1972, is
3896 amended as follows:

3897 43-21-623. Any juvenile who is adjudicated a delinquent on
3898 or after July 1, 1994, as a result of committing a sex offense as
3899 defined in Section 45-33-23 or any offense involving the crime of
3900 rape and placed in the custody of the Mississippi Department of
3901 Children's Affairs, Division of Youth Services, shall be tested
3902 for HIV and AIDS. Such tests shall be conducted by the State



3903 Department of Health in conjunction with the Division of Youth
3904 Services, Mississippi Department of Children's Affairs at the
3905 request of the victim or the victim's parents or guardian if the
3906 victim is a juvenile. The results of any positive HIV or AIDS
3907 tests shall be reported to the victim or the victim's parents or
3908 guardian if the victim is a juvenile as well as to the adjudicated
3909 offender. The State Department of Health shall provide counseling
3910 and referral to appropriate treatment for victims of a sex offense
3911 when the adjudicated offender tested positive for HIV or AIDS if
3912 the victim so requests.

3913 **SECTION 81.** Section 43-21-625, Mississippi Code of 1972, is
3914 amended as follows:

3915 43-21-625. (1) The Mississippi Department of Children's
3916 Affairs shall develop and implement a wilderness training program
3917 for first time youth offenders sentenced or classified as
3918 delinquency cases or as children in need of supervision.

3919 (2) The program shall include supervised camping trips,
3920 calisthenics, manual labor assignments, physical training with
3921 obstacle courses, training in decision-making and personal
3922 development and drug counseling and rehabilitation programs.

3923 (3) The department shall adopt rules requiring that
3924 wilderness training participants complete a structured
3925 disciplinary program and allowing for a restriction on general
3926 inmate population privileges.

3927 (4) Upon receipt of youth offenders, the department shall
3928 screen offenders for the wilderness training program. To
3929 participate, an offender must have no physical limitations which
3930 would preclude participation in strenuous activity, must not be
3931 impaired and must not have been previously incarcerated in a state
3932 or federal correctional facility. In screening offenders for the
3933 wilderness training program, the department shall consider the
3934 offender's criminal history and the possible rehabilitative
3935 benefits of the program. If an offender meets the specified



3936 criteria and space is available, the department shall request in
3937 writing from the sentencing court, approval to participate in the
3938 wilderness training program. If the person is classified by the
3939 court as a delinquent or child in need of supervision and the
3940 department is requesting approval from the sentencing court for
3941 placement in the program, the department shall, at the same time,
3942 notify the prosecuting attorney that the offender is being
3943 considered for placement in the wilderness training program. The
3944 notice shall explain that the purpose of such placement is
3945 diversion from lengthy incarceration when a wilderness training
3946 program could produce the same deterrent effect, and that the
3947 person given notice may, within fourteen (14) days of the mailing
3948 of the notice, notify the sentencing court in writing of
3949 objections, if any, to the placement of the offender in the
3950 wilderness training program. The sentencing court shall notify
3951 the department in writing of placement approval no later than
3952 twenty-one (21) days after receipt of the department's request for
3953 placement of the youthful offender in the wilderness training
3954 program. Failure to notify the department within twenty-one (21)
3955 days shall be considered an approval by the sentencing court for
3956 placing the youthful offender in the wilderness training program.
3957 The offices of the prosecuting attorneys may develop procedures
3958 for notifying each victim that the offender is being considered
3959 for placement in the wilderness training program.

3960 (5) The program shall provide a period of rigorous training
3961 to offenders who require a greater degree of supervision than
3962 community control or probation provides. Wilderness training
3963 programs may be operated in secure areas in or adjacent to adult
3964 institutions or in any area approved by the department. The
3965 program is not intended to divert offenders away from probation or
3966 community control but to divert them from long periods of
3967 incarceration when a wilderness training program could produce the
3968 same deterrent effect.



3969 (6) If an offender in the wilderness training program
3970 becomes unmanageable, the department may place him in an
3971 appropriate facility to complete the remainder of his sentence.
3972 Any period of time in which the offender is unable to participate
3973 in the wilderness training program activities may be excluded from
3974 the specified time requirements in the program. The portion of
3975 the sentence served prior to placement in the wilderness training
3976 program shall not be counted toward program completion. Upon the
3977 offender's completion of the wilderness training program, the
3978 department shall submit a report to the court that describes the
3979 offender's performance. If the offender's performance has been
3980 satisfactory, the court shall issue an order modifying the
3981 sentence imposed and placing the offender on probation. If the
3982 offender violates the conditions of probation, the court may
3983 revoke probation and impose any sentence which it might have
3984 originally imposed.

3985 (7) The department shall provide a special training program
3986 for staff selected for the wilderness training program.

3987 (8) The department is authorized to contract with any
3988 private or public nonprofit organization or entity to carry out
3989 the purpose of this section.

3990 **SECTION 82.** This act shall take effect and be in force from
3991 and after June 30, 2003; provided, however, that Section 1 of this
3992 act relating to an orderly transition shall take effect and be in
3993 force from and after its passage.

