

By: Senator(s) Carlton, Burton, Dearing,  
Hamilton, Harvey, Jackson, Johnson (19th),  
Jordan, King, Moffatt, Nunnelee, Smith,  
Stogner, Thames, Walden

To: Judiciary

SENATE BILL NO. 2629  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 93-15-105, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE PROCEDURE FOR TERMINATION OF PARENTAL RIGHTS IN  
3 CERTAIN CASES; TO AMEND SECTION 93-15-103, MISSISSIPPI CODE OF  
4 1972, TO REVISE GROUNDS FOR TERMINATION OF PARENTAL RIGHTS IN  
5 CASES INVOLVING CHILD ABUSE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 93-15-105, Mississippi Code of 1972, is  
8 amended as follows:

9 93-15-105. (1) Any person, agency or institution may file  
10 for termination of parental rights in the chancery court or the  
11 family or county court sitting as the youth court of the county in  
12 which a defendant or the child resides, or in the county where an  
13 agency or institution holding custody of the child is located.  
14 The chancery court, or the chancellor in vacation, or the family  
15 court, or the family court judge in vacation, or the county court  
16 when sitting as the youth court, or such county court judge in  
17 vacation, may set the cause for hearing in termtime or in  
18 vacation. The petition shall be triable either in termtime or in  
19 vacation, after personal service of process for thirty (30) days,  
20 and in case of nonresident defendants, or defendants whose  
21 addresses are unknown after diligent search, thirty (30) days  
22 after completion of publication; such publication to be otherwise  
23 as provided in the Mississippi Rules of Civil Procedure.

24 (2) In all cases involving termination of parental rights,  
25 minor parents may be served with process as an adult.

26 (3) In the event that one (1) parent voluntarily releases  
27 his child for adoption a copy of the summons served on the child  
28 shall not be required to be served on the releasing parent.



29       (4) In an appropriate case, determination of the rights of  
30 the father of a child born out of wedlock may be made in  
31 proceedings pursuant to a petition for determination of rights as  
32 provided in Section 93-17-6.

33       **SECTION 2.** Section 93-15-103, Mississippi Code of 1972, is  
34 amended as follows:

35       93-15-103. (1) When a child has been removed from the home  
36 of its natural parents and cannot be returned to the home of his  
37 natural parents within a reasonable length of time because  
38 returning to the home would be damaging to the child or the parent  
39 is unable or unwilling to care for the child, relatives are not  
40 appropriate or are unavailable, and when adoption is in the best  
41 interest of the child, taking into account whether the adoption is  
42 needed to secure a stable placement for the child and the strength  
43 of the child's bonds to his natural parents and the effect of  
44 future contacts between them, the grounds listed in subsections  
45 (2) and (3) of this section shall be considered as grounds for the  
46 termination of parental rights. The grounds may apply singly or  
47 in combination in any given case.

48       (2) The rights of a parent with reference to a child,  
49 including parental rights to control or withhold consent to an  
50 adoption, and the right to receive notice of a hearing on a  
51 petition for adoption, may be relinquished and the relationship of  
52 the parent and child terminated by the execution of a written  
53 voluntary release, signed by the parent, regardless of the age of  
54 the parent.

55       (3) Grounds for termination of parental rights shall be  
56 based on one or more of the following factors:

57       (a) A parent has deserted without means of  
58 identification or abandoned a child as defined in Section 97-5-1,  
59 or



60 (b) A parent has made no contact with a child under the  
61 age of three (3) for six (6) months or a child three (3) years of  
62 age or older for a period of one (1) year; or

63 (c) A parent has been responsible for a series of  
64 abusive incidents concerning one or more children; or

65 (d) When the child has been in the care and custody of  
66 a licensed child caring agency or the Department of Human Services  
67 for at least one (1) year, that agency or the department has made  
68 diligent efforts to develop and implement a plan for return of the  
69 child to its parents, and:

70 (i) The parent has failed to exercise reasonable  
71 available visitation with the child; or

72 (ii) The parent, having agreed to a plan to effect  
73 placement of the child with the parent, fails to implement the  
74 plan so that the child caring agency is unable to return the child  
75 to said parent; or

76 (e) The parent exhibits ongoing behavior which would  
77 make it impossible to return the child to the parent's care and  
78 custody:

79 (i) Because the parent has a diagnosable condition  
80 unlikely to change within a reasonable time such as alcohol or  
81 drug addiction, severe mental deficiencies or mental illness, or  
82 extreme physical incapacitation, which condition makes the parent  
83 unable to assume minimally, acceptable care of the child; or

84 (ii) Because the parent fails to eliminate  
85 behavior, identified by the child caring agency or the court,  
86 which prevents placement of said child with the parent in spite of  
87 diligent efforts of the child caring agency to assist the parent;  
88 or

89 (f) When there is an extreme and deep-seated antipathy  
90 by the child toward the parent or when there is some other  
91 substantial erosion of the relationship between the parent and  
92 child which was caused at least in part by the parent's serious



93 neglect, abuse, prolonged and unreasonable absence, unreasonable  
94 failure to visit or communicate, or prolonged imprisonment; or

95 (g) When a parent has been convicted of any of the  
96 following offenses against any child: (i) rape of a child under  
97 the provisions of Section 97-3-65, (ii) sexual battery of a child  
98 under the provisions of Section 97-3-95(c), (iii) touching a child  
99 for lustful purposes under the provisions of Section 97-5-23, (iv)  
100 exploitation of a child under the provisions of Section 97-5-31,  
101 (v) felonious abuse or battery of a child under the provisions of  
102 Section 97-5-39(2), (vi) carnal knowledge of a step or adopted  
103 child or a child of a cohabitating partner under the provisions of  
104 Section 97-5-41, or (vii) murder of another child of such parent,  
105 voluntary manslaughter of another child of such parent, aided or  
106 abetted, attempted, conspired or solicited to commit such murder  
107 or voluntary manslaughter, or a felony assault that results in the  
108 serious bodily injury to the surviving child or another child of  
109 such parent; or

110 (h) The child has been adjudicated to have been abused  
111 or neglected and custody has been transferred from the child's  
112 parent(s) for placement pursuant to Section 43-15-13, and a court  
113 of competent jurisdiction has determined that reunification shall  
114 not be in the child's best interest.

115 (4) Legal custody and guardianship by persons other than the  
116 parent as well as other permanent alternatives which end the  
117 supervision by the Department of Human Services should be  
118 considered as alternatives to the termination of parental rights,  
119 and these alternatives should be selected when, in the best  
120 interest of the child, parental contacts are desirable and it is  
121 possible to secure such placement without termination of parental  
122 rights.

123 (5) When a parent has been convicted of rape of a child  
124 under the provisions of Section 97-3-65, sexual battery of a child  
125 under the provisions of Section 97-3-95(c), touching a child for



126 lustful purposes under the provisions of Section 97-5-23,  
127 exploitation of a child under the provisions of Section 97-5-31,  
128 felonious abuse or battery of a child under the provisions of  
129 Section 97-5-39(2), or carnal knowledge of a step or adopted child  
130 or a child of a cohabitating partner under the provisions of  
131 Section 97-5-41, notice of the conviction shall be forwarded by  
132 the circuit clerk of the county in which the conviction occurred  
133 to the Mississippi Department of Human Services, Division of  
134 Social Services.

135 (6) In any case where a child has been removed from the  
136 parent's home due to sexual abuse or serious bodily injury to the  
137 child, the court shall treat such case for termination of parental  
138 rights as a preference case to be determined with all reasonable  
139 expedition.

140 **SECTION 3.** This act shall take effect and be in force from  
141 and after July 1, 2003.

