

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2271

1 AN ACT TO AMEND SECTION 43-21-201, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE A YOUTH COURT JUDGE TO APPOINT COUNSEL FOR AN INDIGENT
 3 CUSTODIAL PARENT OR GUARDIAN WHO IS A PARTY IN AN ABUSE, NEGLECT
 4 OR TERMINATION OF PARENTAL RIGHTS PROCEEDING; TO AUTHORIZE A YOUTH
 5 COURT JUDGE TO APPOINT COUNSEL FOR AN INDIGENT NONCUSTODIAL PARENT
 6 IF THE YOUTH COURT JUDGE DETERMINES THAT THE PARENT HAS
 7 DEMONSTRATED A SIGNIFICANT CUSTODIAL RELATIONSHIP WITH THE CHILD;
 8 TO REQUIRE AN ATTORNEY APPOINTED TO REPRESENT A CHILD WHO IS
 9 ALLEGED TO HAVE BEEN ABUSED OR NEGLECTED TO COMPLETE ANNUAL
 10 JUVENILE JUSTICE TRAINING THAT IS APPROVED BY THE MISSISSIPPI
 11 JUDICIAL COLLEGE AND THE MISSISSIPPI COMMISSION ON CONTINUING
 12 LEGAL EDUCATION; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 43-21-201, Mississippi Code of 1972, is
 15 amended as follows:

16 43-21-201. (1) (a) Each party shall have the right to be
 17 represented by counsel at all stages of the proceedings including,
 18 but not limited to, detention, shelter, adjudicatory and
 19 disposition hearings and parole or probation revocation
 20 proceedings.

21 (b) In delinquency matters the court shall appoint
 22 legal defense counsel who is not also a guardian ad litem for the
 23 same child. If the party is a child, the child shall be



24 represented by counsel at all critical stages: detention,
25 adjudicatory and disposition hearings; parole or probation
26 revocation proceedings; and post-disposition matters. If
27 indigent, the child shall have the right to have counsel appointed
28 for him by the youth court.

29 (c) A child who is alleged to have been abused or
30 neglected shall be deemed to be a party to the proceedings under
31 this chapter. The child shall be represented by an attorney at
32 all stages of any proceedings held pursuant to this chapter. The
33 court shall appoint an attorney to any child who is unrepresented.

34 The guardian ad litem may serve a dual role as long as no
35 conflict of interest is present. If a conflict of interest
36 arises, the guardian ad litem shall inform the youth court of the
37 conflict, and the youth court shall retain the guardian ad litem
38 to represent the best interest of the child and appoint an
39 attorney to represent the child's preferences as required by
40 Uniform Rule of Youth Court Practice 13(f).

41 (2) When a party first appears before the youth court, the
42 judge shall ascertain whether he is represented by counsel and, if
43 not, inform him of his rights including his right to counsel. If
44 the court determines that a custodial parent or guardian who is a
45 party in an abuse, neglect or termination of parental rights
46 proceeding is indigent, the youth court judge * * * shall appoint
47 counsel to represent the indigent parent or guardian in the
48 proceeding. The youth court judge may appoint counsel to



49 represent a noncustodial parent if the court determines that the
50 noncustodial parent is indigent and has demonstrated a significant
51 custodial relationship with the child. All parents shall have the
52 right to be appointed counsel in termination of parental rights
53 hearings, and the youth court judge shall appoint counsel if the
54 court makes a finding that the parent is indigent and counsel is
55 requested by the parent.

56 (3) An attorney appointed to represent a child who is
57 alleged to have been abused or neglected shall be required to
58 complete annual juvenile justice training that is approved by the
59 Mississippi Judicial College and the Mississippi Commission on
60 Continuing Legal Education. An attorney appointed to represent a
61 child in a delinquency matter shall be required to complete annual
62 juvenile justice training that is approved by the Mississippi
63 Office of State Public Defender and the Mississippi Commission on
64 Continuing Legal Education. An attorney appointed to represent a
65 parent or guardian in an abuse, neglect or termination of parental
66 rights proceeding shall be required to complete annual training
67 that is approved by the Office of State Public Defender and the
68 Mississippi Commission on Continuing Legal Education. The
69 Mississippi Office of State Public Defender and the Mississippi
70 Commission on Continuing Legal Education shall determine the
71 amount of juvenile justice training and continuing education
72 required to fulfill the requirements of this subsection. The
73 State Public Defender shall maintain a roll of attorneys who have



74 complied with the training requirements and shall enforce the
75 provisions of this subsection. Should an attorney fail to
76 complete the annual training requirement or fail to attend the
77 required training within six (6) months of being appointed to a
78 youth court case, the attorney shall be disqualified to serve, and
79 the youth court shall immediately terminate the representation and
80 appoint another attorney. Attorneys appointed by a youth court to
81 five (5) or fewer cases a year are exempt from the requirements of
82 this subsection.

83 (4) The child's attorney shall owe the same duties of
84 undivided loyalty, confidentiality and competent representation to
85 the child or minor as is due an adult client pursuant to the
86 Mississippi Rules of Professional Conduct.

87 (5) An attorney shall enter his appearance on behalf of a
88 party in the proceeding by filing a written notice of appearance
89 with the youth court, by filing a pleading, notice or motion
90 signed by counsel or by appearing in open court and advising the
91 youth court that he is representing a party. After counsel has
92 entered his appearance, he shall be served with copies of all
93 subsequent pleadings, motions and notices required to be served on
94 the party he represents. An attorney who has entered his
95 appearance shall not be permitted to withdraw from the case until
96 a timely appeal, if any, has been decided, except by leave of the
97 court then exercising jurisdiction of the cause after notice of



98 his intended withdrawal is served by him on the party he
99 represents.

100 (6) Each designee appointed by a youth court judge shall be
101 subject to the Code of Judicial Conduct and shall govern himself
102 or herself accordingly.

103 (7) The Department of Child Protection Services shall be a
104 necessary party at all stages of the proceedings involving a child
105 for whom the department has custody, including, but not limited
106 to, shelter, adjudicatory, disposition, permanency hearings and
107 termination of parental rights.

108 **SECTION 2.** This act shall take effect and be in force from
109 and after July 1, 2024.

