

House Amendments to Senate Bill No. 2792

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

42 **SECTION 1.** Section 43-21-105, Mississippi Code of 1972, is
43 amended as follows:

44 43-21-105. The following words and phrases, for purposes of
45 this chapter, shall have the meanings ascribed herein unless the
46 context clearly otherwise requires:

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

48 (b) "Judge" means the judge of the Youth Court
49 Division.

50 (c) "Designee" means any person that the judge appoints
51 to perform a duty which this chapter requires to be done by the
52 judge or his designee. The judge may not appoint a person who is
53 involved in law enforcement or who is an employee of the
54 Mississippi Department of Human Services or the Mississippi
55 Department of Child Protection Services to be his designee.

56 (d) "Child" and "youth" are synonymous, and each means
57 a person who has not reached his eighteenth birthday. A child who
58 has not reached his eighteenth birthday and is on active duty for

59 a branch of the armed services or is married is not considered a
60 "child" or "youth" for the purposes of this chapter.

61 (e) "Parent" means the father or mother to whom the
62 child has been born, or the father or mother by whom the child has
63 been legally adopted.

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

66 (g) "Custodian" means any person having the present
67 care or custody of a child whether such person be a parent or
68 otherwise.

69 (h) "Legal custodian" means a court-appointed custodian
70 of the child.

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

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

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

82 (i) Is habitually disobedient of reasonable and
83 lawful commands of his parent, guardian or custodian and is
84 ungovernable; or

85 (ii) While being required to attend school,
86 willfully and habitually violates the rules thereof or willfully
87 and habitually absents himself therefrom; or

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

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

90 (1) "Neglected child" means a child:

91 (i) Whose parent, guardian or custodian or any
92 person responsible for his care or support, neglects or refuses,
93 when able so to do, to provide for him proper and necessary care
94 or support, or education as required by law, or medical, surgical,
95 or other care necessary for his well-being; however, a parent who
96 withholds medical treatment from any child who in good faith is
97 under treatment by spiritual means alone through prayer in
98 accordance with the tenets and practices of a recognized church or
99 religious denomination by a duly accredited practitioner thereof
100 shall not, for that reason alone, be considered to be neglectful
101 under any provision of this chapter; or

102 (ii) Who is otherwise without proper care,
103 custody, supervision or support; or

104 (iii) Who, for any reason, lacks the special care
105 made necessary for him by reason of his mental condition, whether
106 the mental condition is having mental illness or having an
107 intellectual disability; or

108 (iv) Who * * * is not provided, by the child's
109 parent, guardian or custodian, with food, clothing or shelter
110 necessary to sustain the life or health of the child, excluding

111 such failure caused primarily by financial inability unless relief
112 services have been offered and refused and the child is in
113 imminent risk of harm.

114 (m) "Abused child" means a child whose parent, guardian
115 or custodian or any person responsible for his care or support,
116 whether legally obligated to do so or not, has caused or allowed
117 to be caused, upon the child, sexual abuse, sexual exploitation,
118 commercial sexual exploitation, emotional abuse, mental injury,
119 nonaccidental physical injury or other maltreatment. However,
120 physical discipline, including spanking, performed on a child by a
121 parent, guardian or custodian in a reasonable manner shall not be
122 deemed abuse under this section. "Abused child" also means a
123 child who is or has been trafficked within the meaning of the
124 Mississippi Human Trafficking Act by any person, without regard to
125 the relationship of the person to the child.

126 (n) "Sexual abuse" means obscene or pornographic
127 photographing, filming or depiction of children for commercial
128 purposes, or the rape, molestation, incest, prostitution or other
129 such forms of sexual exploitation of children under circumstances
130 which indicate that the child's health or welfare is harmed or
131 threatened.

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

136 (p) A "dependent child" means any child who is not a
137 child in need of supervision, a delinquent child, an abused child
138 or a neglected child, and which child has been voluntarily placed
139 in the custody of the Department of Child Protection Services by
140 his parent, guardian or custodian.

141 (q) "Custody" means the physical possession of the
142 child by any person.

143 (r) "Legal custody" means the legal status created by a
144 court order which gives the legal custodian the responsibilities
145 of physical possession of the child and the duty to provide him
146 with food, shelter, education and reasonable medical care, all
147 subject to residual rights and responsibilities of the parent or
148 guardian of the person.

149 (s) "Detention" means the care of children in
150 physically restrictive facilities.

151 (t) "Shelter" means care of children in physically
152 nonrestrictive facilities.

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

155 (i) All youth court records as defined in Section
156 43-21-251;

157 (ii) All forensic interviews conducted by a child
158 advocacy center in abuse and neglect investigations;

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

161 (iv) All agency records as defined in Section
162 43-21-257; and

163 (v) All other documents maintained by any
164 representative of the state, county, municipality or other public
165 agency insofar as they relate to the apprehension, custody,
166 adjudication or disposition of a child who is the subject of a
167 youth court cause.

168 (v) "Any person responsible for care or support" means
169 the person who is providing for the child at a given time. This
170 term shall include, but is not limited to, stepparents, foster
171 parents, relatives, nonlicensed babysitters or other similar
172 persons responsible for a child and staff of residential care
173 facilities and group homes that are licensed by the Department of
174 Human Services or the Department of Child Protection Services.

175 (w) The singular includes the plural, the plural the
176 singular and the masculine the feminine when consistent with the
177 intent of this chapter.

178 (x) "Out-of-home" setting means the temporary
179 supervision or care of children by the staff of licensed day care
180 centers, the staff of public, private and state schools, the staff
181 of juvenile detention facilities, the staff of unlicensed
182 residential care facilities and group homes and the staff of, or
183 individuals representing, churches, civic or social organizations.

184 (y) "Durable legal custody" means the legal status
185 created by a court order which gives the durable legal custodian
186 the responsibilities of physical possession of the child and the

187 duty to provide him with care, nurture, welfare, food, shelter,
188 education and reasonable medical care. All these duties as
189 enumerated are subject to the residual rights and responsibilities
190 of the natural parent(s) or guardian(s) of the child or children.

191 (z) "Status offense" means conduct subject to
192 adjudication by the youth court that would not be a crime if
193 committed by an adult.

194 (aa) "Financially able" means a parent or child who is
195 ineligible for a court-appointed attorney.

196 (bb) "Assessment" means an individualized examination
197 of a child to determine the child's psychosocial needs and
198 problems, including the type and extent of any mental health,
199 substance abuse or co-occurring mental health and substance abuse
200 disorders and recommendations for treatment. The term includes,
201 but is not limited to, a drug and alcohol, psychological or
202 psychiatric evaluation, records review, clinical interview or the
203 administration of a formal test and instrument.

204 (cc) "Screening" means a process, with or without the
205 administration of a formal instrument, that is designed to
206 identify a child who is at increased risk of having mental health,
207 substance abuse or co-occurring mental health and substance abuse
208 disorders that warrant immediate attention, intervention or more
209 comprehensive assessment.

210 (dd) "Durable legal relative guardianship" means the
211 legal status created by a youth court order that conveys the
212 physical and legal custody of a child or children by durable legal

213 guardianship to a relative or fictive kin who is licensed as a
214 foster or resource parent.

215 (ee) "Relative" means a person related to the child by
216 affinity or consanguinity within the third degree.

217 (ff) "Fictive kin" means a person not related to the
218 child legally or biologically but who is considered a relative due
219 to a significant, familial-like and ongoing relationship with the
220 child and family.

221 (gg) "Reasonable efforts" means the exercise of
222 reasonable care and due diligence by the Department of Human
223 Services, the Department of Child Protection Services, or any
224 other appropriate entity or person to use * * * services
225 appropriate to the child's background which are accessible and
226 available to meet the individualized needs of the child and
227 child's family to prevent removal and reunify the family as soon
228 as safely possible consistent with the best interests of the
229 child.

230 Reasonable efforts must be made in collaboration with the
231 family and must address the individualized needs of the family
232 which brought the child to the attention of the Department of
233 Child Protection Services and may not consist of required services
234 that are not related to the family's needs.

235 (hh) "Commercial sexual exploitation" means any sexual
236 act or crime of a sexual nature, which is committed against a
237 child for financial or economic gain, to obtain a thing of value
238 for quid pro quo exchange of property or for any other purpose.

239 (ii) "Compelling and extraordinary reasons" why
240 termination of parental rights would not be in the child's best
241 interests may include, but are not limited to, when:
242 (i) A child is being cared for by a relative and
243 that relative, who is otherwise an appropriate, safe and loving
244 placement for the child, is unwilling to participate in
245 termination of parental rights proceedings;
246 (ii) Guardianship is available;
247 (iii) A natural parent is incarcerated but subject
248 to be released within a reasonable time and could be given an
249 opportunity to work a service plan toward possible reunification;
250 (iv) A natural parent is terminally ill and unable
251 to care or provide for the child;
252 (v) The absence of the parent is due to the
253 parent's admission or commitment to any institution or health
254 facility or due to active service in state or federal armed
255 forces;
256 (vi) A child twelve (12) years or older objects to
257 the termination of parental rights;
258 (vii) The child is placed in a residential
259 treatment facility and adoption is unlikely or undesirable or the
260 child is not in an adoptive placement, or it is likely the child
261 will age out of the Department of Child Protection Services'
262 custody rather than be adopted;
263 (viii) Necessary for compliance with the Indian
264 Child Welfare Act; and

265 (ix) The department has not provided services
266 within the time frames indicated in the case plan and there is
267 evidence that the family may achieve reunification within six (6)
268 months or there is a finding that reasonable efforts were not
269 made.

270 **SECTION 2.** Section 43-21-301, Mississippi Code of 1972, is
271 amended as follows:

272 43-21-301. (1) No court other than the youth court shall
273 issue an arrest warrant or custody order for a child in a matter
274 in which the youth court has exclusive original jurisdiction but
275 shall refer the matter to the youth court.

276 (2) Except as otherwise provided, no child in a matter in
277 which the youth court has exclusive original jurisdiction shall be
278 taken into custody by a law enforcement officer, the Department of
279 Human Services, the Department of Child Protection Services, or
280 any other person unless the judge or his designee has issued a
281 custody order to take the child into custody.

282 (3) The judge or his designee may require a law enforcement
283 officer, the Department of Human Services, the Department of Child
284 Protection Services, or any suitable person to take a child into
285 custody for a period not longer than forty-eight (48) hours,
286 excluding Saturdays, Sundays, and statutory state holidays.

287 (a) Custody orders under this subsection may be issued
288 if it appears that there is probable cause to believe that:

289 (i) The child is within the jurisdiction of the
290 court;

291 (ii) Custody is necessary because of any of the
292 following reasons: the child is in danger of a significant risk
293 of harm, any person would be in danger of a significant risk of
294 harm by the child, to ensure the child's attendance in court at
295 such time as required, or a parent, guardian or custodian is not
296 available to provide for the care and supervision of the child;
297 and

298 (iii) There is no reasonable alternative to
299 custody.

300 A finding of probable cause under this subsection (3) (a)
301 shall not be based solely upon a positive drug test of a newborn
302 or parent for marijuana or solely upon the status of a parent as a
303 cardholder under the Mississippi Medical Cannabis Act; however, a
304 finding of probable cause may be based upon an evidence-based
305 finding of harm to the child or a parent's inability to provide
306 for the care and supervision of the child due to the parent's use
307 of marijuana. Probable cause for unlawful use of any controlled
308 substance, except as otherwise provided in this subsection (3) (a)
309 for marijuana, may be based: 1. upon a parent's positive drug
310 test for unlawful use of a controlled substance only if the child
311 is in danger of a significant risk of harm or the parent is unable
312 to provide proper care or supervision of the child because of the
313 unlawful use and there is no reasonable alternative to custody;
314 and 2. upon a newborn's positive drug screen for a controlled
315 substance that was used unlawfully only if the child is in danger
316 of a significant risk of harm or the parent is unable to provide

317 proper care or supervision of the child because of the unlawful
318 use and there is no reasonable alternative to custody.

319 A child may not be considered "neglected" solely because the
320 child's parent, guardian or custodian has failed to provide the
321 child with food, clothing or shelter necessary to sustain the life
322 or health of the child when the failure is caused primarily by
323 financial inability, unless relief services have been offered and
324 refused and the child is in imminent risk of harm.

325 (b) Custody orders under this subsection shall be
326 written. In emergency cases, a judge or his designee may issue an
327 oral custody order, but the order shall be reduced to writing
328 within forty-eight (48) hours of its issuance.

329 (c) Each youth court judge shall develop and make
330 available to law enforcement a list of designees who are available
331 after hours, on weekends and on holidays.

332 (4) The judge or his designee may order, orally or in
333 writing, the immediate release of any child in the custody of any
334 person or agency. Except as otherwise provided in subsection (3)
335 of this section, custody orders as provided by this chapter and
336 authorizations of temporary custody may be written or oral, but,
337 if oral, reduced to writing within forty-eight (48) hours,
338 excluding Saturdays, Sundays and statutory state holidays. The
339 written order shall:

340 (a) Specify the name and address of the child, or, if
341 unknown, designate him or her by any name or description by which
342 he or she can be identified with reasonable certainty;

343 (b) Specify the age of the child, or, if unknown, that
344 he or she is believed to be of an age subject to the jurisdiction
345 of the youth court;

346 (c) Except in cases where the child is alleged to be a
347 delinquent child or a child in need of supervision, state that the
348 effect of the continuation of the child's residing within his or
349 her own home would be contrary to the welfare of the child, that
350 the placement of the child in foster care is in the best interests
351 of the child, and unless the reasonable efforts requirement is
352 bypassed under Section 43-21-603(7)(c), also state that (i)
353 reasonable efforts have been made to maintain the child within his
354 or her own home, but that the circumstances warrant his removal
355 and there is no reasonable alternative to custody; or (ii) the
356 circumstances are of such an emergency nature that no reasonable
357 efforts have been made to maintain the child within his own home,
358 and that there is no reasonable alternative to custody. If the
359 court makes a finding in accordance with (ii) of this paragraph,
360 the court shall order that reasonable efforts be made toward the
361 reunification of the child with his or her family;

362 (d) State that the child shall be brought immediately
363 before the youth court or be taken to a place designated by the
364 order to be held pending review of the order;

365 (e) State the date issued and the youth court by which
366 the order is issued; and

367 (f) Be signed by the judge or his designee with the
368 title of his office.

369 (5) The taking of a child into custody shall not be
370 considered an arrest except for evidentiary purposes.

371 (6) (a) No child who has been accused or adjudicated of any
372 offense that would not be a crime if committed by an adult shall
373 be placed in an adult jail or lockup. An accused status offender
374 shall not be held in secure detention longer than twenty-four (24)
375 hours prior to and twenty-four (24) hours after an initial court
376 appearance, excluding Saturdays, Sundays and statutory state
377 holidays, except under the following circumstances: a status
378 offender may be held in secure detention for violating a valid
379 court order pursuant to the criteria as established by the federal
380 Juvenile Justice and Delinquency Prevention Act of 2002, and any
381 subsequent amendments thereto, and out-of-state runaways may be
382 detained pending return to their home state.

383 (b) No accused or adjudicated juvenile offender, except
384 for an accused or adjudicated juvenile offender in cases where
385 jurisdiction is waived to the adult criminal court, shall be
386 detained or placed into custody of any adult jail or lockup for a
387 period in excess of six (6) hours.

388 (c) If any county violates the provisions of paragraph
389 (a) or (b) of this subsection, the state agency authorized to
390 allocate federal funds received pursuant to the Juvenile Justice
391 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
392 scattered Sections of 5, 18, 42 USCS), shall withhold the county's
393 share of such funds.

394 (d) Any county that does not have a facility in which
395 to detain its juvenile offenders in compliance with the provisions
396 of paragraphs (a) and (b) of this subsection may enter into a
397 contractual agreement to detain or place into custody the juvenile
398 offenders of that county with any county or municipality that does
399 have such a facility, or with the State of Mississippi, or with
400 any private entity that maintains a juvenile correctional
401 facility.

402 (e) Notwithstanding the provisions of paragraphs (a),
403 (b), (c) and (d) of this subsection, all counties shall be allowed
404 a one-year grace period from March 27, 1993, to comply with the
405 provisions of this subsection.

406 **SECTION 3.** Section 43-21-303, Mississippi Code of 1972, is
407 amended as follows:

408 43-21-303. (1) No child in a matter in which the youth
409 court has original exclusive jurisdiction shall be taken into
410 custody by any person without a custody order except that:

411 (a) A law enforcement officer may take a child in
412 custody if:

413 (i) Grounds exist for the arrest of an adult in
414 identical circumstances; and

415 (ii) Such law enforcement officer has probable
416 cause to believe that custody is necessary as defined in Section
417 43-21-301; and

418 (iii) Such law enforcement officer can find no
419 reasonable alternative to custody; or

420 (b) A law enforcement officer or an agent of the
421 Department of Child Protection Services or the Department of Human
422 Services may take a child into immediate custody if:

423 (i) There is probable cause to believe that the
424 child is in immediate danger of personal harm; however, probable
425 cause shall not be based solely upon a positive drug test of a
426 newborn or parent for marijuana or solely upon the status of a
427 parent as a cardholder under the Mississippi Medical Cannabis Act,
428 but a finding of probable cause may be based upon an
429 evidence-based finding of harm to the child or a parent's
430 inability to provide for the care and supervision of the child due
431 to the parent's use of marijuana. Probable cause for unlawful use
432 of any controlled substance, except as otherwise provided in this
433 subparagraph (i) for marijuana, may be based: 1. upon a parent's
434 positive drug test for unlawful use of a controlled substance only
435 if the child is in danger of a significant risk of harm or the
436 parent is unable to provide proper care or supervision of the
437 child because of the unlawful use and there is no reasonable
438 alternative to custody; and 2. upon a newborn's positive drug
439 screen for a controlled substance that was used unlawfully only if
440 the child is in danger of a significant risk of harm or the parent
441 is unable to provide proper care or supervision of the child
442 because of the unlawful use and there is no reasonable alternative
443 to custody * * *.

444 A child may not be considered "neglected" solely because the
445 child's parent, guardian or custodian has failed to provide the

446 child with food, clothing or shelter necessary to sustain the life
447 or health of the child when the failure is caused primarily by
448 financial inability, unless relief services have been offered and
449 refused and the child is in imminent risk of harm; and

450 (ii) There is probable cause to believe that
451 immediate custody is necessary as set forth in Section
452 43-21-301(3); and

453 (iii) There is no reasonable alternative to
454 custody; and

455 (c) Any other person may take a child into custody if
456 grounds exist for the arrest of an adult in identical
457 circumstances. Such other person shall immediately surrender
458 custody of the child to the proper law enforcement officer who
459 shall thereupon continue custody only as provided in subsection
460 (1)(a) of this section.

461 (2) When it is necessary to take a child into custody, the
462 least restrictive custody should be selected.

463 (3) Unless the child is immediately released, the person
464 taking the child into custody shall immediately notify the judge
465 or his designee. A person taking a child into custody shall also
466 make continuing reasonable efforts to notify the child's parent,
467 guardian or custodian and invite the parent, guardian or custodian
468 to be present during any questioning.

469 (4) A child taken into custody shall not be held in custody
470 for a period longer than reasonably necessary, but not to exceed
471 twenty-four (24) hours, and shall be released to his parent,

472 guardian or custodian unless the judge or his designee authorizes
473 temporary custody.

474 **SECTION 4.** Section 93-15-103, Mississippi Code of 1972, is
475 amended as follows:

476 93-15-103. For purposes of this chapter, unless a different
477 meaning is plainly expressed by the context, the following
478 definitions apply:

479 (a) "Abandonment" means any conduct by the parent,
480 whether consisting of a single incident or actions over an
481 extended period of time, that evinces a settled purpose to
482 relinquish all parental claims and responsibilities to the child.
483 Abandonment may be established by showing:

484 (i) For a child who is under three (3) years of
485 age on the date that the petition for termination of parental
486 rights was filed, that the parent has deliberately made no contact
487 with the child for six (6) months;

488 (ii) For a child who is three (3) years of age or
489 older on the date that the petition for termination of parental
490 rights was filed, that the parent has deliberately made no contact
491 with the child for at least one (1) year;

492 (iii) If the child is under six (6) years of age,
493 that the parent has exposed the child in any highway, street,
494 field, outhouse, or elsewhere with the intent to wholly abandon
495 the child; or

496 (iv) If the parent gives possession of the child
497 to an emergency medical services provider pursuant to Sections
498 43-15-201 et seq.

499 (b) "Child" means a person under eighteen (18) years of
500 age.

501 (c) "Court" means the court having jurisdiction under
502 the Mississippi Termination of Parental Rights Law.

503 (d) "Desertion" means:

504 (i) Any conduct by the parent over an extended
505 period of time that demonstrates a willful neglect or refusal to
506 provide for the support and maintenance of the child; or

507 (ii) That the parent has not demonstrated, within
508 a reasonable period of time after the birth of the child, a full
509 commitment to the responsibilities of parenthood.

510 (e) "Home" means any charitable or religious
511 corporation or organization or the superintendent or head of the
512 charitable or religious corporation or organization organized
513 under the laws of the State of Mississippi, any public authority
514 to which has been granted the power to provide care for or procure
515 the adoption of children by any Mississippi statute, and any
516 association or institution engaged in placing children for
517 adoption on July 1, 1955.

518 (f) "Interested person" means any person related to the
519 child by consanguinity or affinity, a custodian or legal guardian
520 of the child, a guardian ad litem representing the child's best

521 interests, or an attorney representing the child's preferences
522 under Rule 13 of the Uniform Rules of Youth Court Practice.

523 (g) "Minor parent" means any parent under twenty-one
524 (21) years of age.

525 (h) "Parent" means a natural or adoptive parent of the
526 child.

527 (i) "Permanency outcome" means achieving a permanent or
528 long-term custodial arrangement for the custody and care of the
529 child that ends the supervision of the Department of Child
530 Protection Services.

531 (j) "Qualified health professional" means a licensed or
532 certified professional who is engaged in the delivery of health
533 services and who meets all applicable federal or state
534 requirements to provide professional services.

535 (k) "Qualified mental health professional" means a
536 person with at least a master's degree in mental health or a
537 related field and who has either a professional license or a
538 Department of Mental Health credential as a mental health
539 therapist.

540 (l) "Reunification" means the restoration of the
541 parent's custodial rights in providing for the safety and welfare
542 of the child which ends the supervision of the Department of Child
543 Protection Services.

544 (m) "Compelling and extraordinary reasons" why
545 termination of parental rights would not be in the child's best
546 interests may include, but are not limited to, when:

547 (i) A child is being cared for by a relative and
548 that relative, who is otherwise an appropriate, safe and loving
549 placement for the child, is unwilling to participate in
550 termination of parental rights proceedings;

551 (ii) Guardianship is available;

552 (iii) A natural parent is incarcerated but subject
553 to be released within a reasonable time and could be given an
554 opportunity to work a service plan toward possible reunification;

555 (iv) A natural parent is terminally ill and unable
556 to care or provide for the child;

557 (v) The absence of the parent is due to the
558 parent's admission or commitment to any institution or health
559 facility or due to active service in state or federal armed
560 forces;

561 (vi) A child twelve (12) years or older objects to
562 the termination of parental rights;

563 (vii) The child is placed in a residential
564 treatment facility and adoption is unlikely or undesirable or the
565 child is not in an adoptive placement, or it is likely the child
566 will age out of the Department of Child Protection Services'
567 custody rather than be adopted;

568 (viii) Necessary for compliance with the Indian
569 Child Welfare Act; and

570 (ix) The department has not provided services
571 within the time frames indicated in the case plan and there is
572 evidence that the family may achieve reunification within six (6)

573 months or there is a finding that reasonable efforts were not
574 made.

575 **SECTION 5.** Section 43-21-201, Mississippi Code of 1972, is
576 amended as follows:

577 43-21-201. (1) (a) Each party shall have the right to be
578 represented by counsel at all stages of the proceedings including,
579 but not limited to, detention, shelter, adjudicatory and
580 disposition hearings and parole or probation revocation
581 proceedings.

582 (b) In delinquency matters the court shall appoint
583 legal defense counsel who is not also a guardian ad litem for the
584 same child. If the party is a child, the child shall be
585 represented by counsel at all critical stages: detention,
586 adjudicatory and disposition hearings; parole or probation
587 revocation proceedings; and post-disposition matters. If
588 indigent, the child shall have the right to have counsel appointed
589 for him by the youth court.

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

595 The guardian ad litem may serve a dual role as long as no
596 conflict of interest is present. If a conflict of interest
597 arises, the guardian ad litem shall inform the Youth Court of the
598 conflict and the youth court shall retain the guardian ad litem to

599 represent the best interest of the child and appoint an attorney
600 to represent the child's preferences as required by Uniform Rule
601 of Youth Court Practice 13(f).

602 (2) (a) When a party first appears before the youth court,
603 the judge shall ascertain whether he is represented by counsel
604 and, if not, inform him of his rights including his right to
605 counsel. If the court determines that a parent or guardian who is
606 a party in an abuse, neglect or termination of parental rights
607 proceeding is indigent, the youth court judge * * * shall appoint
608 counsel to represent the indigent custodial parent or guardian in
609 the proceeding. The court may appoint counsel to represent a
610 noncustodial parent if the court determines that the noncustodial
611 parent is indigent and has demonstrated a significant custodial
612 relationship with the child. All parents have the right to have
613 appointed counsel in termination of parental rights hearings, and
614 the court shall appoint counsel if the court makes a finding that
615 the parent is indigent and counsel is requested by the parent.
616 For purposes of this section, indigency must be determined
617 pursuant to Section 25-32-9 and Rule 7.3 of the Mississippi Rules
618 of Criminal Procedures.

619 (b) (i) The court shall order a financially able
620 parent or custodian to pay all or part of reasonable attorney's
621 fees and expenses for court-appointed representation after review
622 by the court of an affidavit of financial means completed and
623 verified by a parent or custodian and a determination by the court
624 of an ability to pay.

625 (ii) All monies collected by the clerk under this
626 paragraph must be retained by the clerk and deposited into a
627 special fund to be known as the "Juvenile Court Representation
628 Fund."

629 (iii) The court may direct that money from the
630 fund be used in providing counsel for indigent parents or
631 custodians at the trial level in dependency-neglect proceedings.

632 (iv) Upon a determination of indigency and a
633 finding by the court that the fund does not have sufficient funds
634 to pay reasonable attorney's fees and expenses incurred at the
635 trial court level and that state funds have been exhausted, the
636 court may order the county to pay the reasonable fees and expenses
637 until the state provides funding for counsel.

638 (3) An attorney appointed to represent a child shall be
639 required to complete annual juvenile justice training that is
640 approved by the Mississippi Office of State Public Defender and
641 the Mississippi Commission on Continuing Legal Education. An
642 attorney appointed to represent a parent or guardian in an abuse,
643 neglect or termination of parental rights proceeding shall be
644 required to complete annual training that is approved by the
645 Office of State Public Defender and the Mississippi Commission on
646 Continuing Legal Education. The Mississippi Office of State
647 Public Defender and the Mississippi Commission on Continuing Legal
648 Education shall determine the amount of juvenile justice training
649 and continuing education required to fulfill the requirements of
650 this subsection. The State Public Defender shall maintain a roll

651 of attorneys who have complied with the training requirements and
652 shall enforce the provisions of this subsection. Should an
653 attorney fail to complete the annual training requirement or fail
654 to attend the required training within six (6) months of being
655 appointed to a youth court case, the attorney shall be
656 disqualified to serve and the youth court shall immediately
657 terminate the representation and appoint another attorney.
658 Attorneys appointed by a youth court to five (5) or fewer cases a
659 year are exempt from the requirements of this subsection.

660 (4) Attorneys for all parties, including the child's
661 attorney, shall owe the * * * duties of undivided loyalty,
662 confidentiality and competent representation to the * * * party
663 client pursuant to the Mississippi Rules of Professional Conduct.

664 (5) An attorney shall enter his appearance on behalf of a
665 party in the proceeding by filing a written notice of appearance
666 with the youth court, by filing a pleading, notice or motion
667 signed by counsel or by appearing in open court and advising the
668 youth court that he is representing a party. After counsel has
669 entered his appearance, he shall be served with copies of all
670 subsequent pleadings, motions and notices required to be served on
671 the party he represents. An attorney who has entered his
672 appearance shall not be permitted to withdraw from the case until
673 a timely appeal, if any, has been decided, except by leave of the
674 court then exercising jurisdiction of the cause after notice of
675 his intended withdrawal is served by him on the party he
676 represents.

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

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

685 **SECTION 6.** Section 93-15-107, Mississippi Code of 1972, is
686 amended as follows:

687 93-15-107. (1) (a) Involuntary termination of parental
688 rights proceedings are commenced upon the filing of a petition
689 under this chapter. The petition may be filed by any interested
690 person, or any agency, institution or person holding custody of
691 the child. The simultaneous filing of a petition for adoption is
692 not a prerequisite for filing a petition under this chapter.

693 (b) The proceeding shall be triable, either in term
694 time or vacation, thirty (30) days after personal service of
695 process to any necessary party or, for a necessary party whose
696 address is unknown after diligent search, thirty (30) days after
697 the date of the first publication of service of process by
698 publication that complies with the Mississippi Rules of Civil
699 Procedure.

700 (c) Necessary parties to a termination of parental
701 rights action shall include the mother of the child, the legal
702 father of the child, the putative father of the child when known,

703 and any agency, institution or person holding custody of the
704 child. If the child is twelve (12) years or older at the time of
705 the hearing, a summons must be issued and served upon the minor
706 child, together with a copy of the petition, not less than seven
707 (7) days before the hearing. The minor child must be represented
708 by an attorney throughout the proceedings. The court shall
709 appoint an attorney for a minor child who is unrepresented so that
710 the court has the benefit of knowing the child's stated interest.
711 If the child is fourteen (14) years or older at the time of the
712 hearing, the child's preferences regarding the termination of
713 parental rights must be considered by the court. The absence of a
714 necessary party who has been properly served does not preclude the
715 court from conducting the hearing or rendering a final judgment.

716 (d) A guardian ad litem shall be appointed to protect
717 the best interest of the child, except that the court, in its
718 discretion, may waive this requirement when a parent executes a
719 written voluntary release to terminate parental rights. The
720 guardian ad litem fees shall be determined and assessed in the
721 discretion of the court.

722 (e) The style of the case may not include the child's
723 name when the child is not the party plaintiff or petitioner.

724 (2) Voluntary termination of parental rights by written
725 voluntary release is governed by Section 93-15-111.

726 (3) In all cases involving termination of parental rights, a
727 minor parent shall be served with process as an adult.

728 (4) The court may waive service of process if an adoptive
729 child was born in a foreign country, put up for adoption in the
730 birth country, and has been legally admitted into this country.

731 (5) The clerk shall docket cases seeking relief under this
732 chapter as priority cases. The assigned judge shall be
733 immediately notified when a case is filed in order to provide for
734 expedited proceedings.

735 (6) (a) Once the petition for termination of parental
736 rights is filed with the court of competent jurisdiction, the
737 court shall hold a hearing on the petition within ninety (90)
738 calendar days of the date the petition is filed absent
739 extraordinary circumstances.

740 (b) For purposes of this subsection, the ninety (90)
741 calendar-day time period commences when perfected service is made
742 on the parents.

743 (c) For purposes of this subsection, extraordinary
744 circumstances include:

745 (i) The Mississippi Supreme Court orders the
746 suspension of in-person court proceedings; or

747 (ii) One (1) of the following has occurred:

748 1. The President of the United States has
749 declared a national emergency; or

750 2. The Governor has declared a state of
751 emergency or a statewide public health emergency; or

752 3. The best interests of the child are served
753 and the court makes specific findings of such.

754 **SECTION 7.** Section 93-15-111, Mississippi Code of 1972, is
755 amended as follows:

756 93-15-111. (1) The court * * * shall accept the parent's
757 written voluntary release if it meets the following minimum
758 requirements:

759 (a) Is signed under oath and dated at least seventy-two
760 (72) hours after the birth of the child;

761 (b) States the parent's full name, the relationship of
762 the parent to the child, and the parent's address;

763 (c) States the child's full name, date of birth, time
764 of birth if known, and place of birth as indicated on the birth
765 certificate;

766 (d) Identifies the governmental agency or home to which
767 the child has been surrendered, if any;

768 (e) States the parent's consent to adoption of the
769 child and waiver of service of process for any future adoption
770 proceedings;

771 (f) Acknowledges that the termination of the parent's
772 parental rights and that the subsequent adoption of the child may
773 significantly affect, or even eliminate, the parent's right to
774 inherit from the child under the laws of Descent and Distribution
775 (Chapter 1, Title 91, Mississippi Code of 1972);

776 (g) Acknowledges that all provisions of the written
777 voluntary release were entered into knowingly, intelligently, and
778 voluntarily; and

779 (h) Acknowledges that the parent is entitled to consult
780 an attorney regarding the parent's parental rights.

781 (2) The court's order accepting the parent's written
782 voluntary release terminates all of the parent's parental rights
783 to the child, including, but not limited to, the parental right to
784 control or withhold consent to an adoption. * * * Further, the
785 written voluntary release serves as a waiver of the parent's right
786 to have a hearing on acceptance of the release.

787 **SECTION 8.** Section 43-21-151, Mississippi Code of 1972, is
788 amended as follows:

789 43-21-151. (1) The youth court shall have exclusive
790 original jurisdiction in all proceedings concerning a delinquent
791 child, a child in need of supervision, a neglected child, an
792 abused child or a dependent child except in the following
793 circumstances:

794 (a) Any act attempted or committed by a child, which if
795 committed by an adult would be punishable under state or federal
796 law by life imprisonment or death, will be in the original
797 jurisdiction of the circuit court;

798 (b) Any act attempted or committed by a child with the
799 use of a deadly weapon, the carrying of which concealed is
800 prohibited by Section 97-37-1, or a shotgun or a rifle, which
801 would be a felony if committed by an adult, will be in the
802 original jurisdiction of the circuit court; and

803 (c) When a charge of abuse or neglect of a child first
804 arises in the course of a custody action between the parents of

805 the child already pending in the chancery court and no notice of
806 such abuse or neglect was provided prior to such chancery
807 proceedings, the chancery court may proceed with the
808 investigation, hearing and determination of such abuse or neglect
809 charge as a part of its hearing and determination of the custody
810 issue as between the parents, notwithstanding the other provisions
811 of the Youth Court Law. The proceedings in chancery court on the
812 abuse or neglect charge shall be confidential in the same manner
813 as provided in youth court proceedings.

814 When a child is expelled from the public schools, the youth
815 court shall be notified of the act of expulsion and the act or
816 acts constituting the basis for expulsion.

817 (2) Jurisdiction of the child in the cause shall attach at
818 the time of the offense or the allegations of abuse, neglect or
819 exploitation, and shall continue thereafter for that offense or
820 the allegations of abuse, neglect or exploitation until the
821 child's twentieth birthday, unless sooner terminated by order of
822 the youth court. The youth court shall not have jurisdiction over
823 offenses committed by a child on or after his eighteenth birthday,
824 nor have jurisdiction over allegations of abuse, neglect or
825 exploitation committed against a child after the child's
826 eighteenth birthday.

827 (3) No child who has not reached his thirteenth birthday
828 shall be held criminally responsible or criminally prosecuted for
829 a misdemeanor or felony; however, the parent, guardian or
830 custodian of such child may be civilly liable for any criminal

831 acts of such child. No child under the jurisdiction of the youth
832 court shall be held criminally responsible or criminally
833 prosecuted by any court for any act designated as a delinquent
834 act, unless jurisdiction is transferred to another court under
835 Section 43-21-157.

836 (4) The youth court shall also have jurisdiction of offenses
837 committed by a child which have been transferred to the youth
838 court by an order of a circuit court of this state having original
839 jurisdiction of the offense, as provided by Section 43-21-159.

840 (5) The youth court shall regulate and approve the use of
841 teen court as provided in Section 43-21-753.

842 (6) Nothing in this section shall prevent the circuit court
843 from assuming jurisdiction over a youth who has committed an act
844 of delinquency upon a youth court's ruling that a transfer is
845 appropriate pursuant to Section 43-21-157.

846 **SECTION 9.** Section 93-17-3, Mississippi Code of 1972, is
847 amended as follows:

848 93-17-3. (1) Except as otherwise provided in this section,
849 a court of this state has jurisdiction over a proceeding for the
850 adoption or readoption of a minor commenced under this chapter if:

851 (a) Immediately before commencement of the proceeding,
852 the minor lived in this state with a parent, a guardian, a
853 prospective adoptive parent or another person acting as parent,
854 for at least six (6) consecutive months, excluding periods of
855 temporary absence, or, in the case of a minor under six (6) months
856 of age, lived in this state from soon after birth with any of

857 those individuals and there is available in this state substantial
858 evidence concerning the minor's present or future care;

859 (b) Immediately before commencement of the proceeding,
860 the prospective adoptive parent lived in this state for at least
861 six (6) consecutive months, excluding periods of temporary
862 absence, and there is available in this state substantial evidence
863 concerning the minor's present or future care;

864 (c) The agency that placed the minor for adoption is
865 licensed in this state and it is in the best interest of the minor
866 that a court of this state assume jurisdiction because:

867 (i) The minor and the minor's parents, or the
868 minor and the prospective adoptive parent, have a significant
869 connection with this state; and

870 (ii) There is available in this state substantial
871 evidence concerning the minor's present or future care;

872 (d) The minor and the prospective adoptive parent or
873 parents are physically present in this state and the minor has
874 been abandoned or it is necessary in an emergency to protect the
875 minor because the minor has been subjected to or threatened with
876 mistreatment or abuse or is otherwise neglected, and the
877 prospective adoptive parent or parents, if not residing in
878 Mississippi, have completed and provided the court with a
879 satisfactory Interstate Compact for Placement of Children (ICPC)
880 home study and accompanying forms, unless the court determines
881 that the home study is not necessary in the case of an adoption by

882 a stepparent or a relative or in the case of an adoption in a
883 foster-to-adopt placement;

884 (e) It appears that no other state would have
885 jurisdiction under prerequisites substantially in accordance with
886 paragraphs (a) through (d), or another state has declined to
887 exercise jurisdiction on the ground that this state is the more
888 appropriate forum to hear a petition for adoption of the minor,
889 and it is in the best interest of the minor that a court of this
890 state assume jurisdiction; or

891 (f) The child has been adopted in a foreign country,
892 the agency that placed the minor for adoption is licensed in this
893 state, and it is in the best interest of the child to be readopted
894 in a court of this state having jurisdiction.

895 (2) A court of this state may not exercise jurisdiction over
896 a proceeding for adoption of a minor if, at the time the petition
897 for adoption is filed, a proceeding concerning the custody or
898 adoption of the minor is pending in a court of another state
899 exercising jurisdiction substantially in conformity with the
900 Uniform Child Custody Jurisdiction Act or this section unless the
901 proceeding is stayed by the court of the other state.

902 (3) If a court of another state has issued a decree or order
903 concerning the custody of a minor who may be the subject of a
904 proceeding for adoption in this state, a court of this state may
905 not exercise jurisdiction over a proceeding for adoption of the
906 minor unless:

907 (a) The court of this state finds that the court of the
908 state which issued the decree or order:

909 (i) Does not have continuing jurisdiction to
910 modify the decree or order under jurisdictional prerequisites
911 substantially in accordance with the Uniform Child Custody
912 Jurisdiction Act or has declined to assume jurisdiction to modify
913 the decree or order; or

914 (ii) Does not have jurisdiction over a proceeding
915 for adoption substantially in conformity with subsection (1)(a)
916 through (d) or has declined to assume jurisdiction over a
917 proceeding for adoption; and

918 (b) The court of this state has jurisdiction over the
919 proceeding.

920 (4) Any person may be adopted in accordance with the
921 provisions of this chapter in term time or in vacation by an
922 unmarried adult, by a married person whose spouse joins in the
923 petition, by a married person whose spouse does not join in the
924 petition because such spouse does not cohabit or reside with the
925 petitioning spouse, and in any circumstances determined by the
926 court that the adoption is in the best interest of the child.
927 Only the consenting adult will be a legal parent of the child.
928 The adoption shall be by sworn petition filed in the chancery
929 court of the county in which the adopting petitioner or
930 petitioners reside or in which the child to be adopted resides or
931 was born, or was found when it was abandoned or deserted, or in
932 which the home is located to which the child has been surrendered

933 by a person authorized to so do. The petition shall be
934 accompanied by a doctor's or nurse practitioner's certificate
935 showing the physical and mental condition of the child to be
936 adopted and a sworn statement of all property, if any, owned by
937 the child. In addition, the petition shall be accompanied by
938 affidavits of the petitioner or petitioners stating the amount of
939 the service fees charged by any adoption agencies or adoption
940 facilitators used by the petitioner or petitioners and any other
941 expenses paid by the petitioner or petitioners in the adoption
942 process as of the time of filing the petition. If the doctor's or
943 nurse practitioner's certificate indicates any abnormal mental or
944 physical condition or defect, the condition or defect shall not,
945 in the discretion of the chancellor, bar the adoption of the child
946 if the adopting parent or parents file an affidavit stating full
947 and complete knowledge of the condition or defect and stating a
948 desire to adopt the child, notwithstanding the condition or
949 defect. The court shall have the power to change the name of the
950 child as a part of the adoption proceedings. The word "child" in
951 this section shall be construed to refer to the person to be
952 adopted, though an adult.

953 (5) No person may be placed in the home of or adopted by the
954 prospective adopting parties before a court-ordered or voluntary
955 home study is satisfactorily completed by a licensed adoption
956 agency, a licensed, experienced social worker approved by the
957 chancery court, a court-appointed guardian ad litem that has
958 knowledge or training in conducting home studies if so directed by

959 the court, or by the Department of Child Protection Services on
960 the prospective adoptive parties if required by Section 93-17-11.

961 (6) No person may be adopted by a person or persons who
962 reside outside the State of Mississippi unless the provisions of
963 the Interstate Compact for Placement of Children (Section 43-18-1
964 et seq.) have been complied with. In such cases Forms 100A, 100B
965 (if applicable) and evidence of Interstate Compact for Placement
966 of Children approval shall be added to the permanent adoption
967 record file within one (1) month of the placement, and a minimum
968 of two (2) post-placement reports conducted by a licensed
969 child-placing agency shall be provided to the Mississippi
970 Department of Child Protection Services Interstate Compact for
971 Placement of Children office.

972 (7) No person may be adopted unless the provisions of the
973 Indian Child Welfare Act (ICWA) have been complied with, if
974 applicable. When applicable, proof of compliance shall be
975 included in the court adoption file prior to finalization of the
976 adoption. If not applicable, a written statement or paragraph in
977 the petition for adoption shall be included in the adoption
978 petition stating that the provisions of ICWA do not apply before
979 finalization.

980 (8) The readoption of a child who has automatically acquired
981 United States citizenship following an adoption in a foreign
982 country and who possesses a Certificate of Citizenship in
983 accordance with the Child Citizenship Act, CAA, Public Law
984 106-395, may be given full force and effect in a readoption

985 proceeding conducted by a court of competent jurisdiction in this
986 state by compliance with the Mississippi Registration of Foreign
987 Adoptions Act, Article 9 of this chapter.

988 (9) For adult adoptees who consent to the adoption, a
989 chancellor may waive any of the petition requirements and
990 procedural requirements within subsections (4), (5), (6) and (7)
991 of this section.

992 (10) The clerk shall docket cases seeking relief under this
993 chapter as priority cases. The assigned judge shall be
994 immediately notified when a case is filed in order to provide for
995 expedited proceedings.

996 * * *

997 **SECTION 10.** Section 93-15-121, Mississippi Code of 1972, is
998 amended as follows:

999 93-15-121. Any of the following, if established by clear and
1000 convincing evidence, may be grounds for termination of the
1001 parent's parental rights if reunification between the parent and
1002 child is not desirable toward obtaining a satisfactory permanency
1003 outcome:

1004 (a) The parent has been medically diagnosed by a
1005 qualified mental health professional with a severe mental illness
1006 or deficiency that is unlikely to change in a reasonable period of
1007 time and which, based upon expert testimony or an established
1008 pattern of behavior, * * * prevents the parent, despite reasonable
1009 accommodations, from providing minimally acceptable care for the
1010 child;

1011 (b) The parent has been medically diagnosed by a
1012 qualified health professional with an extreme physical
1013 incapacitation that is unlikely to change in a reasonable period
1014 of time and which, based upon expert testimony or an established
1015 pattern of behavior, prevents the parent, despite reasonable
1016 accommodations, from providing minimally acceptable care for the
1017 child;

1018 (c) The parent is suffering from habitual alcoholism or
1019 other drug addiction and has failed to successfully complete
1020 alcohol or drug treatment;

1021 (d) The parent is unwilling to provide reasonably
1022 necessary food, clothing, shelter, or medical care for the child;
1023 reasonably necessary medical care does not include recommended or
1024 optional vaccinations against childhood or any other disease;

1025 (e) The parent has failed to exercise reasonable
1026 visitation or communication with the child;

1027 (f) The parent's abusive or neglectful conduct has
1028 caused, at least in part, an extreme and deep-seated antipathy by
1029 the child toward the parent, or some other substantial erosion of
1030 the relationship between the parent and the child;

1031 (g) The parent has committed an abusive act for which
1032 reasonable efforts to maintain the children in the home would not
1033 be required under Section 43-21-603, or a series of physically,
1034 mentally, or emotionally abusive incidents, against the child or
1035 another child, whether related by consanguinity or affinity or

1036 not, making future contacts between the parent and child
1037 undesirable; or

1038 (h) (i) The parent has been convicted of any of the
1039 following offenses against any child:

1040 1. Rape of a child under Section 97-3-65;

1041 2. Sexual battery of a child under Section
1042 97-3-95(c);

1043 3. Touching a child for lustful purposes
1044 under Section 97-5-23;

1045 4. Exploitation of a child under Sections
1046 97-5-31 through 97-5-37;

1047 5. Felonious abuse or battery of a child
1048 under Section 97-5-39(2);

1049 6. Carnal knowledge of a step or adopted
1050 child or a child of a cohabitating partner under Section 97-5-41;
1051 or

1052 7. Human trafficking of a child under Section
1053 97-3-54.1; or

1054 (ii) The parent has been convicted of:

1055 1. Murder or voluntary manslaughter of
1056 another child of the parent;

1057 2. Aiding, abetting, attempting, conspiring
1058 or soliciting to commit murder or voluntary manslaughter of the
1059 child or another child of the parent; or

1060 3. A felony assault that results in the
1061 serious bodily injury to the child or another child of the parent.

1062 **SECTION 11.** Section 25-7-9, Mississippi Code of 1972, is
1063 amended as follows:

1064 **[From and after January 1, 2024, and through December 31,**
1065 **2027, this section shall read as follows:]**

1066 25-7-9. (1) The clerks of the chancery courts shall charge
1067 the following fees:

1068 (a) For the act of certifying copies of filed
1069 documents, for each complete document.....\$ 1.00

1070 (b) (i) Recording each deed, will, lease, amendment,
1071 subordination, lien, release, cancellation, order, decree, oath,
1072 etc., per book and page listed where applicable, each deed of
1073 trust, or any other document, for the first five (5)
1074 pages.....\$ 25.00

1075 (ii) Each additional page.....\$ 1.00

1076 (c) (i) Recording oil and gas leases, cancellations,
1077 etc., including indexing in general indices; for the first five
1078 (5) pages.....\$ 25.00

1079 (ii) Recording each oil and gas assignment,
1080 amendment of assignment, release, etc., first five (5)
1081 pages.....\$ 25.00

1082 per additional assignee.....\$ 18.00

1083 (iii) Each additional page.....\$ 1.00

1084 (iv) Sectional index entries per section or
1085 subdivision lot.....\$ 1.00

1086 (v) Archive fee.....\$ 1.00

1087 (vi) Entering marginal notations, if requested on
1088 document or by cover letter, pertaining to the recording of any
1089 oil and gas document only per book and page.....\$ 4.00

1090 (d) (i) Furnishing copies of any papers of record or
1091 on file:

1092 If performed by the clerk or his employee,
1093 per page.....\$.50

1094 If performed by any other person,
1095 per page.....\$.25

1096 (ii) Entering marginal notations on
1097 documents of record.....\$ 1.00

1098 (e) For attending the board of supervisors' meeting, an
1099 annual sum not exceeding.....\$ 2,500.00

1100 (f) For other services as clerk of the board of
1101 supervisors an allowance shall be made to him (payable
1102 semiannually at the July and January meetings) out of the county
1103 treasury, an annual sum not exceeding.....\$ 5,500.00

1104 (g) For each day's attendance on the chancery court, to
1105 be approved by the chancellor:

1106 For the first chancellor sitting only, clerk and two (2)
1107 deputies, each.....\$ 85.00

1108 For the second chancellor sitting, clerk only....\$ 85.00

1109 Provided that the fees herein prescribed shall be the total
1110 remuneration for the clerk and his deputies for attending chancery
1111 court.

1112 (h) On order of the court, clerks and not more than two
1113 (2) deputies may be allowed five (5) extra days for each term of
1114 court for attendance upon the court to get up records.

1115 (i) For public service not otherwise specifically
1116 provided for, the chancery court may by order allow the clerk to
1117 be paid by the county on the order of the board of supervisors, an
1118 annual sum not exceeding.....\$ 5,000.00

1119 (j) For each civil filing, to be deposited into the
1120 Civil Legal Assistance Fund.....\$ 5.00

1121 The chancery clerk shall itemize on the original document a
1122 detailed fee bill of all charges due or paid for filing, recording
1123 and abstracting same. No person shall be required to pay such
1124 fees until same have been so itemized, but those fees may be
1125 demanded before the document is recorded.

1126 (2) The following fee shall be a total fee for all services
1127 performed by the clerk with respect to any civil case filed that
1128 includes, but is not limited to, divorce, alteration of birth or
1129 marriage certificate, removal of minority, guardianship or
1130 conservatorship, estate of deceased, adoptions that do not involve
1131 the Mississippi Department of Child Protection Services, land
1132 dispute injunction, settlement of small claim, contempt,
1133 modification, partition suit, or commitment, which shall be
1134 payable upon filing and shall accrue to the chancery clerk at the
1135 time of filing. The clerk or his successor in office shall
1136 perform all duties set forth without additional compensation or
1137 fee.....\$ 85.00

1138 (3) For every civil case filed:
1139 (a) An additional fee to be deposited to the credit of
1140 the Comprehensive Electronic Court Systems Fund established in
1141 Section 9-21-14.....\$ 10.00

1142 (b) An additional fee to be deposited to the
1143 credit of the Judicial System Operation Fund established in
1144 Section 9-21-45.....\$ 40.00

1145 (4) Cost of process shall be borne by the issuing party.
1146 Additionally, should the attorney or person filing the pleadings
1147 desire the clerk to pay the cost to the sheriff for serving
1148 process on one (1) person or more, or to pay the cost of
1149 publication, the clerk shall demand the actual charges therefor,
1150 at the time of filing.

1151 **[From and after January 1, 2028, this section shall read as**
1152 **follows:]**

1153 25-7-9. (1) The clerks of the chancery courts shall charge
1154 the following fees:

1155 (a) For the act of certifying copies of filed
1156 documents, for each complete document.....\$ 1.00

1157 (b) (i) Recording each deed, will, lease, amendment,
1158 subordination, lien, release, cancellation, order, decree, oath,
1159 etc., per book and page listed where applicable, each deed of
1160 trust, or any other document, for the first five (5)
1161 pages.....\$ 25.00

1162 (ii) Each additional page.....\$ 1.00

1163 (c) (i) Recording oil and gas leases, cancellations,
 1164 etc., including indexing in general indices; for the first five
 1165 (5) pages.....\$ 25.00
 1166 (ii) Recording each oil and gas assignment,
 1167 amendment of assignment, release, etc., first five (5)
 1168 pages.....\$ 25.00
 1169 per additional assignee.....\$ 18.00
 1170 (iii) Each additional page.....\$ 1.00
 1171 (iv) Sectional index entries per section or
 1172 subdivision lot.....\$ 1.00
 1173 (v) Archive fee.....\$ 1.00
 1174 (vi) Entering marginal notations, if requested on
 1175 document or by cover letter, pertaining to the recording of any
 1176 oil and gas document only per book and page.....\$ 4.00
 1177 (d) (i) Furnishing copies of any papers of record or
 1178 on file:
 1179 If performed by the clerk or his employee,
 1180 per page.....\$.50
 1181 If performed by any other person,
 1182 per page.....\$.25
 1183 (ii) Entering marginal notations on
 1184 documents of record.....\$ 1.00
 1185 (e) For attending the board of supervisors' meeting an
 1186 annual sum not exceeding.....\$ 5,000.00
 1187 (f) For other services as clerk of the board of
 1188 supervisors an allowance shall be made to him (payable

1189 semiannually at the July and January meetings) out of the county
1190 treasury, an annual sum not exceeding.....\$10,000.00

1191 (g) For each day's attendance on the chancery court, to
1192 be approved by the chancellor:

1193 For the first chancellor sitting only, clerk and two (2)
1194 deputies, each.....\$ 85.00

1195 For the second chancellor sitting, clerk only....\$ 85.00

1196 Provided that the fees herein prescribed shall be the total
1197 remuneration for the clerk and his deputies for attending chancery
1198 court.

1199 (h) On order of the court, clerks and not more than two
1200 (2) deputies may be allowed five (5) extra days for each term of
1201 court for attendance upon the court to get up records.

1202 (i) For public service not otherwise specifically
1203 provided for, the chancery court may by order allow the clerk to
1204 be paid by the county on the order of the board of supervisors, an
1205 annual sum not exceeding.....\$ 5,000.00

1206 (j) For each civil filing, to be deposited into the
1207 Civil Legal Assistance Fund.....\$ 5.00

1208 The chancery clerk shall itemize on the original document a
1209 detailed fee bill of all charges due or paid for filing, recording
1210 and abstracting same. No person shall be required to pay such
1211 fees until same have been so itemized, but those fees may be
1212 demanded before the document is recorded.

1213 (2) The following fee shall be a total fee for all services
1214 performed by the clerk with respect to any civil case filed that

1215 includes, but is not limited to, divorce, alteration of birth or
1216 marriage certificate, removal of minority, guardianship or
1217 conservatorship, estate of deceased, adoptions that do not involve
1218 the Mississippi Department of Child Protection Services, land
1219 dispute injunction, settlement of small claim, contempt,
1220 modification, partition suit, or commitment, which shall be
1221 payable upon filing and shall accrue to the chancery clerk at the
1222 time of filing. The clerk or his successor in office shall
1223 perform all duties set forth without additional compensation or
1224 fee.....\$ 85.00

1225 (3) For every civil case filed:

1226 (a) An additional fee to be deposited to the credit of
1227 the Comprehensive Electronic Court Systems Fund established in
1228 Section 9-21-14.....\$ 10.00

1229 (b) An additional fee to be deposited to the
1230 credit of the Judicial System Operation Fund established in
1231 Section 9-21-45.....\$ 40.00

1232 (4) Cost of process shall be borne by the issuing party.
1233 Additionally, should the attorney or person filing the pleadings
1234 desire the clerk to pay the cost to the sheriff for serving
1235 process on one (1) person or more, or to pay the cost of
1236 publication, the clerk shall demand the actual charges therefor,
1237 at the time of filing.

1238 **SECTION 12.** Section 97-5-39, Mississippi Code of 1972, is
1239 amended as follows:

1240 97-5-39. (1) (a) Except as otherwise provided in this
1241 section, any parent, guardian or other person who intentionally,
1242 knowingly or recklessly commits any act or omits the performance
1243 of any duty, which act or omission contributes to or tends to
1244 contribute to the neglect or delinquency of any child or which act
1245 or omission results in the abuse of any child, as defined in
1246 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
1247 any child in escaping or absenting himself from the guardianship
1248 or custody of any person, agency or institution, or knowingly
1249 harbors or conceals, or aids in harboring or concealing, any child
1250 who has absented himself without permission from the guardianship
1251 or custody of any person, agency or institution to which the child
1252 shall have been committed by the youth court shall be guilty of a
1253 misdemeanor, and upon conviction shall be punished by a fine not
1254 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
1255 to exceed one (1) year in jail, or by both such fine and
1256 imprisonment.

1257 (b) For the purpose of this section, a child is a
1258 person who has not reached his eighteenth birthday. A child who
1259 has not reached his eighteenth birthday and is on active duty for
1260 a branch of the armed services, or who is married, is not
1261 considered a child for the purposes of this statute.

1262 (c) If a child commits one (1) of the proscribed acts
1263 in subsection (2) (a), (b) or (c) of this section upon another
1264 child, then original jurisdiction of all such offenses shall be in
1265 youth court.

1266 (d) If the * * * parent has failed to provide the child
1267 with food, clothing or shelter necessary to sustain the life or
1268 health of the child, excluding failure caused by financial
1269 inability unless relief services have been offered and refused and
1270 the child is in imminent risk of harm, or the parent is unwilling
1271 to provide reasonably necessary medical care, though that medical
1272 care does not include recommended or optional vaccinations against
1273 childhood or any other disease, the person may be sentenced to
1274 imprisonment in custody of the Department of Corrections for not
1275 more than five (5) years or to payment of a fine of not more than
1276 Five Thousand Dollars (\$5,000.00), or both.

1277 (e) A parent, legal guardian or other person who
1278 knowingly permits the continuing physical or sexual abuse of a
1279 child is guilty of neglect of a child and may be sentenced to
1280 imprisonment in the custody of the Department of Corrections for
1281 not more than ten (10) years or to payment of a fine of not more
1282 than Ten Thousand Dollars (\$10,000.00), or both.

1283 (2) Any person shall be guilty of felonious child abuse in
1284 the following circumstances:

1285 (a) Whether bodily harm results or not, if the person
1286 shall intentionally, knowingly or recklessly:

1287 (i) Burn any child;

1288 (ii) * * * Torture any child;

1289 (iii) Strangle, choke, smother or in any way
1290 interfere with any child's breathing;

1291 (iv) Poison a child;

1292 (v) Starve a child of nourishments needed to
1293 sustain life or growth;

1294 (vi) Use any type of deadly weapon upon any child;

1295 (b) If some bodily harm to any child actually occurs,
1296 and if the person shall intentionally, knowingly or recklessly:

1297 (i) Throw, kick, bite, or cut any child;

1298 (ii) Strike a child under the age of fourteen (14)
1299 about the face or head with a closed fist;

1300 (iii) Strike a child under the age of five (5) in
1301 the face or head;

1302 (iv) Kick, bite, cut or strike a child's genitals;
1303 circumcision of a male child is not a violation under this
1304 subparagraph (iv);

1305 (c) If serious bodily harm to any child actually
1306 occurs, and if the person shall intentionally, knowingly or
1307 recklessly:

1308 (i) Strike any child on the face or head;

1309 (ii) Disfigure or scar any child;

1310 (iii) Whip, strike or otherwise abuse any child;

1311 (d) Any person, upon conviction under paragraph (a) or
1312 (c) of this subsection, shall be sentenced by the court to
1313 imprisonment in the custody of the Department of Corrections for a
1314 term of not less than five (5) years and up to life, as determined
1315 by the court. Any person, upon conviction under paragraph (b) of
1316 this subsection shall be sentenced by the court to imprisonment in
1317 the custody of the Department of Corrections for a term of not

1318 less than two (2) years nor more than ten (10) years, as
1319 determined by the court. For any second or subsequent conviction
1320 under this subsection (2), the person shall be sentenced to
1321 imprisonment for life.

1322 (e) For the purposes of this subsection (2), "bodily
1323 harm" means any bodily injury to a child and includes, but is not
1324 limited to, bruising, bleeding, lacerations, soft tissue swelling,
1325 and external or internal swelling of any body organ.

1326 (f) For the purposes of this subsection (2), "serious
1327 bodily harm" means any serious bodily injury to a child and
1328 includes, but is not limited to, the fracture of a bone, permanent
1329 disfigurement, permanent scarring, or any internal bleeding or
1330 internal trauma to any organ, any brain damage, any injury to the
1331 eye or ear of a child or other vital organ, and impairment of any
1332 bodily function.

1333 (g) For purposes of this subsection (2), "torture"
1334 means any act, omission or intentional neglect committed by an
1335 individual upon a child within the person's custody or physical
1336 control, whereby unnecessary or unjustifiable physical or mental
1337 pain or suffering is caused or permitted, regardless of whether
1338 serious physical injury results. Child torture involves treatment
1339 that is intentionally cruel, inhumane and degrading, including,
1340 but not limited to: intentionally starving a child; forcing a
1341 child to sit in urine or feces; binding or restraining a child;
1342 repeatedly physically injuring a child; exposing the child to
1343 extreme temperatures without adequate clothing or shelter; locking

1344 a child in closets or other small spaces; and forcing a child into
1345 stress positions or exercise resulting in prolonged suffering.

1346 (* * *h) Nothing contained in paragraph (c) of this
1347 subsection shall preclude a parent or guardian from disciplining a
1348 child of that parent or guardian, or shall preclude a person in
1349 loco parentis to a child from disciplining that child, if done in
1350 a reasonable manner, and reasonable corporal punishment or
1351 reasonable discipline as to that parent or guardian's child or
1352 child to whom a person stands in loco parentis shall be a defense
1353 to any violation charged under paragraph (c) of this subsection.

1354 (* * *i) Reasonable discipline and reasonable corporal
1355 punishment shall not be a defense to acts described in paragraphs
1356 (a) and (b) of this subsection or if a child suffers serious
1357 bodily harm as a result of any act prohibited under paragraph (c)
1358 of this subsection.

1359 (3) Nothing contained in this section shall prevent
1360 proceedings against the parent, guardian or other person under any
1361 statute of this state or any municipal ordinance defining any act
1362 as a crime or misdemeanor. Nothing in the provisions of this
1363 section shall preclude any person from having a right to trial by
1364 jury when charged with having violated the provisions of this
1365 section.

1366 (4) (a) A parent, legal guardian or caretaker who endangers
1367 a child's person or health by knowingly causing or permitting the
1368 child to be present where any person is selling, manufacturing or
1369 possessing immediate precursors or chemical substances with intent

1370 to manufacture, sell or possess a controlled substance as
1371 prohibited under Section 41-29-139 or 41-29-313, is guilty of
1372 child endangerment and may be sentenced to imprisonment for not
1373 more than ten (10) years or to payment of a fine of not more than
1374 Ten Thousand Dollars (\$10,000.00), or both.

1375 (b) If the endangerment results in substantial harm to
1376 the child's physical, mental or emotional health, the person may
1377 be sentenced to imprisonment for not more than twenty (20) years
1378 or to payment of a fine of not more than Twenty Thousand Dollars
1379 (\$20,000.00), or both.

1380 (5) Nothing contained in this section shall prevent
1381 proceedings against the parent, guardian or other person under any
1382 statute of this state or any municipal ordinance defining any act
1383 as a crime or misdemeanor. Nothing in the provisions of this
1384 section shall preclude any person from having a right to trial by
1385 jury when charged with having violated the provisions of this
1386 section.

1387 (6) After consultation with the Department of Child
1388 Protection Services, a regional mental health center or an
1389 appropriate professional person, a judge may suspend imposition or
1390 execution of a sentence provided in subsections (1) and (2) of
1391 this section and in lieu thereof require treatment over a
1392 specified period of time at any approved public or private
1393 treatment facility. A person may be eligible for treatment in
1394 lieu of criminal penalties no more than one (1) time.

1395 (7) In any proceeding resulting from a report made pursuant
1396 to Section 43-21-353 of the Youth Court Law, the testimony of the
1397 physician making the report regarding the child's injuries or
1398 condition or cause thereof shall not be excluded on the ground
1399 that the physician's testimony violates the physician-patient
1400 privilege or similar privilege or rule against disclosure. The
1401 physician's report shall not be considered as evidence unless
1402 introduced as an exhibit to his testimony.

1403 (8) Any criminal prosecution arising from a violation of
1404 this section shall be tried in the circuit, county, justice or
1405 municipal court having jurisdiction; provided, however, that
1406 nothing herein shall abridge or dilute the contempt powers of the
1407 youth court.

1408 **SECTION 13.** The following shall be codified as Section
1409 43-19-107, Mississippi Code of 1972:

1410 43-19-107. Whenever the court has ordered a noncustodial
1411 parent to make periodic payments for the maintenance or support of
1412 a child, the court may establish minimum child visitation
1413 schedules if the court determines that visitation would be in the
1414 best interests of the child.

1415 **SECTION 14.** Section 89-2-3, Mississippi Code of 1972, is
1416 amended as follows:

1417 89-2-3. The term "outdoor recreational purposes" as used in
1418 this article shall include, but not necessarily be limited to,
1419 hunting, fishing, swimming, boating, camping, picnicking, hiking,

1420 cycling, pleasure driving, nature study, water skiing and visiting
1421 historical, archaeological, scenic or scientific sites.

1422 **SECTION 15.** Section 89-2-25, Mississippi Code of 1972, is
1423 amended as follows:

1424 89-2-25. Any landowner who gives permission to another
1425 person to hunt, fish, trap, camp, hike, cycle or sightsee upon
1426 land or premises shall not, by the sole act of giving such
1427 permission, be considered or construed to have:

1428 (a) Extended any assurance that the premises are safe
1429 for such purposes;

1430 (b) Caused the person to whom permission has been
1431 granted to be constituted the legal status of an invitee to whom a
1432 duty of care is owed; or

1433 (c) Assumed responsibility or liability for any injury
1434 to such person or his property caused by any act of such person to
1435 whom permission has been granted, except as provided in Section
1436 89-2-27.

1437 **SECTION 16.** This act shall take effect and be in force from
1438 and after July 1, 2024.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITIONS OF VARIOUS TERMS USED UNDER THE YOUTH
3 COURT LAW; TO AMEND SECTIONS 43-21-301 AND 43-21-303, MISSISSIPPI
4 CODE OF 1972, TO PROVIDE THAT A CHILD MAY NOT BE CONSIDERED
5 NEGLECTED WHEN THE FAILURE OF THE PARENT TO PROPERLY PROVIDE FOR
6 THE CHILD IS PRIMARILY DUE TO FINANCIAL INABILITY; TO AMEND
7 SECTION 93-15-103, MISSISSIPPI CODE OF 1972, TO DEFINE THE PHRASE
8 "COMPELLING AND EXTRAORDINARY REASONS" AS USED UNDER THE

9 MISSISSIPPI TERMINATION OF PARENTAL RIGHTS LAW; TO AMEND SECTION
10 43-21-201, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COURT TO
11 APPOINT COUNSEL FOR AN INDIGENT CUSTODIAL PARENT IN YOUTH COURT
12 PROCEEDINGS, AND TO REQUIRE A FINANCIALLY ABLE PARENT TO PAY FOR
13 COURT-APPOINTED REPRESENTATION; TO REQUIRE MONIES COLLECTED TO BE
14 DEPOSITED INTO A SPECIAL FUND TO BE KNOWN AS THE "JUVENILE COURT
15 REPRESENTATION FUND" TO HELP COVER THE COSTS OF COUNSEL IN
16 INDIGENT CASES; TO AMEND SECTION 93-15-107, MISSISSIPPI CODE OF
17 1972, TO REQUIRE CHILDREN AGE 12 OR OLDER TO BE INCLUDED IN
18 PROCEEDINGS FOR THE INVOLUNTARY TERMINATION OF PARENTAL RIGHTS; TO
19 AMEND SECTION 93-15-111, MISSISSIPPI CODE OF 1972, TO REQUIRE A
20 COURT TO ACCEPT A PARENT'S WRITTEN VOLUNTARY RELEASE TERMINATING
21 PARENTAL RIGHTS IF CERTAIN REQUIREMENTS ARE MET; TO AMEND SECTION
22 43-21-151, MISSISSIPPI CODE OF 1972, TO INCLUDE CHARGES OF CHILD
23 NEGLECT WITHIN THE JURISDICTION OF THE YOUTH COURT; TO AMEND
24 SECTION 93-17-3, MISSISSIPPI CODE OF 1972, TO DELETE THE
25 REQUIREMENT FOR HOLDING A HEARING ON THE TERMINATION OF PARENTAL
26 RIGHTS WITHIN 120 DAYS FROM THE STATUTE GOVERNING ADOPTION
27 PROCEEDINGS; TO AMEND SECTION 93-15-121, MISSISSIPPI CODE OF 1972,
28 TO REVISE THE FACTORS TO BE CONSIDERED IN DETERMINING IF A
29 PARENT'S MENTAL ILLNESS IS GROUNDS FOR TERMINATION OF PARENTAL
30 RIGHTS; TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972, TO
31 REMOVE ADOPTIONS INVOLVING THE DEPARTMENT OF CHILD PROTECTION
32 SERVICES FROM THE SERVICES FOR WHICH A CHANCERY CLERK IS PAID A
33 FEE; TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO DEFINE
34 THE TERM "TORTURE" AS A TYPE OF FELONIOUS CHILD ABUSE; TO CREATE
35 NEW SECTION 43-19-107, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A
36 COURT TO ESTABLISH MINIMUM CHILD VISITATION SCHEDULES FOR CERTAIN
37 NONCUSTODIAL PARENTS ORDERED TO PAY CHILD SUPPORT; TO AMEND
38 SECTIONS 89-2-3 AND 89-2-25, MISSISSIPPI CODE OF 1972, TO ADD
39 CYCLING TO THE ACTIVITIES EXEMPT FROM LIABILITY FOR RECREATIONAL
40 LANDOWNERS; AND FOR RELATED PURPOSES.

HR31\SB2792A.1J

Andrew Ketchings
Clerk of the House of Representatives