

By: Representatives Perkins, Campbell  
(72nd), Espy

To: Public Health and Human  
Services; Appropriations

HOUSE BILL NO. 265

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE CERTAIN RIGHTS TO RELATIVES, OTHER THAN NATURAL  
3 PARENTS, WHO CARE FOR CHILDREN PLACED IN THEIR HOME BY THE  
4 DEPARTMENT OF HUMAN SERVICES, INCLUDING RECEIVING REIMBURSEMENT OF  
5 CHILD CARE COSTS; TO AMEND SECTION 43-15-17, MISSISSIPPI CODE OF  
6 1972, TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE  
7 MONTHLY PAYMENTS TO RELATIVES, OTHER THAN NATURAL PARENTS, WHO  
8 CARE FOR CHILDREN PLACED IN THEIR HOME BY THE DEPARTMENT OF HUMAN  
9 SERVICES; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 43-15-13, Mississippi Code of 1972, is  
12 amended as follows:

13 43-15-13. (1) For purposes of this section, "children"  
14 means persons found within the state who are under the age of  
15 twenty-one (21) years, and who were placed in the custody of the  
16 Department of Human Services by the youth court of the appropriate  
17 county.

18 (2) The Department of Human Services shall establish a  
19 foster care placement program for children whose custody lies with  
20 the department, with the following objectives:

21 (a) Protecting and promoting the health, safety and  
22 welfare of children;

23 (b) Preventing the unnecessary separation of children  
24 from their families by identifying family problems, assisting  
25 families in resolving their problems and preventing the breakup of  
26 the family where the prevention of child removal is desirable and  
27 possible when the child can be cared for at home without  
28 endangering the child's health and safety;



29 (c) Remediating or assisting in the solution of problems  
30 which may result in the neglect, abuse, exploitation or  
31 delinquency of children;

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

36 (e) Placing children in suitable adoptive homes  
37 approved by a licensed adoption agency or family protection  
38 specialist, in cases where restoration to the biological family is  
39 not safe, possible or appropriate;

40 (f) Assuring safe and adequate care of children away  
41 from their homes, in cases where the child cannot be returned home  
42 or cannot be placed for adoption. At the time of placement, the  
43 department shall implement concurrent planning, as described in  
44 subsection (8) of this section, so that permanency may occur at  
45 the earliest opportunity. Consideration of possible failure or  
46 delay of reunification should be given, to the end that the  
47 placement made is the best available placement to provide  
48 permanency for the child; and

49 (g) Providing a family protection specialist or worker  
50 or team of such specialists or workers for a family and child  
51 throughout the implementation of their permanent living  
52 arrangement plan. Wherever feasible, the same family protection  
53 specialist or worker or team shall remain on the case until the  
54 child is no longer under the jurisdiction of the youth court.

55 (3) The State Department of Human Services shall administer  
56 a system of individualized plans and reviews once every six (6)  
57 months for each child under its custody within the State of  
58 Mississippi, each child who has been adjudged a neglected,  
59 abandoned or abused child and whose custody was changed by court  
60 order as a result of such adjudication, and each public or private  
61 facility licensed by the department. The State Department of



62 Human Services administrative review shall be completed on each  
63 child within the first three (3) months and a foster care review  
64 once every six (6) months after the child's initial  
65 forty-eight-hour shelter hearing. Such system shall be for the  
66 purpose of enhancing potential family life for the child by the  
67 development of individual plans to return the child to its natural  
68 parent or parents, or to refer the child to the appropriate court  
69 for termination of parental rights and placement in a permanent  
70 relative's home, adoptive home or foster/adoptive home. The goal  
71 of the State Department of Human Services shall be to return the  
72 child to its natural parent(s) or refer the child to the  
73 appropriate court for termination of parental rights and placement  
74 in a permanent relative's home, adoptive home or foster/adoptive  
75 home within the time periods specified in this subsection or in  
76 subsection (4) of this section. In furthering this goal, the  
77 department shall establish policy and procedures designed to  
78 appropriately place children in permanent homes, such policy to  
79 include a system of reviews for all children in foster care, as  
80 follows: foster care counselors in the department shall make all  
81 possible contact with the child's natural parent(s) and any  
82 interested relative for the first two (2) months following the  
83 child's entry into the foster care system. For any child who was  
84 in foster care before July 1, 1998, and has been in foster care  
85 for fifteen (15) of the last twenty-two (22) months regardless of  
86 whether the foster care was continuous for all of those twenty-two  
87 (22) months, the department shall file a petition to terminate the  
88 parental rights of the child's parents. The time period starts to  
89 run from the date the court makes a finding of abuse and/or  
90 neglect or sixty (60) days from when the child was removed from  
91 his or her home, whichever is earlier. The department can choose  
92 not to file a termination of parental rights petition if the  
93 following apply:

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



95           (b) The department has documented compelling and  
96 extraordinary reasons why termination of parental rights would not  
97 be in the best interests of the child. Prior to granting or  
98 denying a request by the department for an extension of time for  
99 filing a termination of parental rights action, the court shall  
100 receive a written report on the progress which a parent of such  
101 child has made in treatment, to be made to the court in writing by  
102 a mental health/substance abuse therapist or counselor.

103           (4) In the case of any child who is placed in foster care on  
104 or after July 1, 1998, except in cases of aggravated circumstances  
105 prescribed in Section 43-21-603(7)(c) or (d), the child's natural  
106 parent(s) will have a reasonable time to be determined by the  
107 court, which shall not exceed a six-month period of time, in which  
108 to meet the service agreement with the department for the benefit  
109 of the child unless the department has documented extraordinary  
110 and compelling reasons for extending the time period in the best  
111 interest of the child. If this agreement has not been  
112 satisfactorily met, simultaneously the child will be referred to  
113 the appropriate court for termination of parental rights and  
114 placement in a permanent relative's home, adoptive home or a  
115 foster/adoptive home. For children under the age of three (3)  
116 years, termination of parental rights shall be initiated within  
117 six (6) months, unless the department has documented compelling  
118 and extraordinary circumstances, and placement in a permanent  
119 relative's home, adoptive home or foster/adoptive home within two  
120 (2) months. For children who have been abandoned pursuant to the  
121 provisions of Section 97-5-1, termination of parental rights shall  
122 be initiated within thirty (30) days and placement in an adoptive  
123 home shall be initiated without necessity for placement in a  
124 foster home. The department need not initiate termination of  
125 parental rights proceedings where the child has been placed in  
126 durable legal custody or long-term or formalized foster care by a  
127 court of competent jurisdiction.



128           (5) The foster care review once every six (6) months shall  
129 be conducted by the youth court or its designee(s), and/or by  
130 personnel within the State Department of Human Services or by a  
131 designee or designees of the department and may include others  
132 appointed by the department, and the review shall include at a  
133 minimum an evaluation of the child based on the following:

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

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

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

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

142           (e) Social services offered and/or utilized to  
143 facilitate plans for establishing a permanent home for the child;  
144 and

145           (f) Relevant testimony and recommendations from the  
146 foster parent of the child, the grandparents of the child, the  
147 guardian ad litem of the child, representatives of any private  
148 care agency which has cared for the child, the family protection  
149 worker or family protection specialist assigned to the case, and  
150 any other relevant testimony pertaining to the case.

151           Each child's review plan once every six (6) months shall be  
152 filed with the court which awarded custody and shall be made  
153 available to natural parents or foster parents upon approval of  
154 the court. The court shall make a finding as to the degree of  
155 compliance by the agency and the parent(s) with the child's social  
156 service plan. The court also shall find that the child's health  
157 and safety are the paramount concern. In the interest of the  
158 child, the court shall, where appropriate, initiate proceedings on  
159 its own motion. The State Department of Human Services shall  
160 report to the Legislature as to the number of such children, the



161 findings of the foster care review board and relevant statistical  
162 information in foster care in a semiannual report to the  
163 Legislature to be submitted to the Joint Oversight Committee of  
164 the Department of Human Services. The report shall not refer to  
165 the specific name of any child in foster care.

166 (6) The State Department of Human Services, with the  
167 cooperation and assistance of the State Department of Health,  
168 shall develop and implement a training program for foster care  
169 parents to indoctrinate them as to their proper responsibilities  
170 upon a child's entry into their foster care. The program shall  
171 provide a minimum of twelve (12) clock hours of training. The  
172 foster care training program shall be satisfactorily completed by  
173 such foster care parents prior to or within ninety (90) days after  
174 child placement with such parent. Record of such foster care  
175 parent's training program participation shall be filed with the  
176 court as part of a foster care child's review plan once every six  
177 (6) months.

178 (7) When the Department of Human Services is considering  
179 placement of a child in a foster home and when the department  
180 deems it to be in the best interest of the child, the department  
181 shall give first priority to placing the child in the home of one  
182 (1) of the child's relatives within the third degree, as computed  
183 by the civil law rule. In placing the child in a relative's home,  
184 the department may waive the rule, regulation or policy applicable  
185 to placement in foster care that would \* \* \* require the child to  
186 have a separate bed or bedroom or have a bedroom of a certain  
187 size, if placing the child in a relative's home would be in the  
188 best interest of the child and such requirements cannot be met in  
189 the relative's home.

190 (8) The Legislature recognizes that the best interests of  
191 the child require that the child be placed in the most permanent  
192 living arrangement as soon as is practicably possible. To achieve  
193 this goal, the Department of Human Services is directed to conduct



194 concurrent planning so that a permanent living arrangement may  
195 occur at the earliest opportunity. Permanent living arrangements  
196 may include prevention of placement of a child outside the home of  
197 the family when the child can be cared for at home without  
198 endangering the child's health or safety; reunification with the  
199 family, when safe and appropriate, if temporary placement is  
200 necessary; or movement of the child toward the most permanent  
201 living arrangement and permanent legal status. When a child is  
202 placed in foster care or relative care, the department shall first  
203 ensure and document that reasonable efforts were made to prevent  
204 or eliminate the need to remove the child from the child's home.  
205 The department's first priority shall be to make reasonable  
206 efforts to reunify the family when temporary placement of the  
207 child occurs or shall request a finding from the court that  
208 reasonable efforts are not appropriate or have been unsuccessful.  
209 A decision to place a child in foster care or relative care shall  
210 be made with consideration of the child's health, safety and best  
211 interests. At the time of placement, consideration should also be  
212 given so that if reunification fails or is delayed, the placement  
213 made is the best available placement to provide a permanent living  
214 arrangement for the child. The department shall adopt rules  
215 addressing concurrent planning for reunification and a permanent  
216 living arrangement. The department shall consider the following  
217 factors when determining appropriateness of concurrent planning:  
218           (a) The likelihood of prompt reunification;  
219           (b) The past history of the family;  
220           (c) The barriers to reunification being addressed by  
221 the family;  
222           (d) The level of cooperation of the family;  
223           (e) The foster parents' willingness to work with the  
224 family to reunite;



225 (f) The willingness and ability of the foster family or  
226 relative placement to provide an adoptive home or long-term  
227 placement;

228 (g) The age of the child; and

229 (h) Placement of siblings.

230 (9) If the department has placed a child in foster care or  
231 relative care pursuant to a court order, the department may not  
232 change the child's placement unless the department specifically  
233 documents to the court that the current placement is unsafe or  
234 unsuitable or that another placement is in the child's best  
235 interests unless the new placement is in an adoptive home or other  
236 permanent placement. Except in emergency circumstances as  
237 determined by the department or where the court orders placement  
238 of the child pursuant to Section 43-21-303, the foster parents,  
239 grandparents or other relatives of the child shall be given an  
240 opportunity to contest the specific reasons documented by the  
241 department at least seventy-two (72) hours prior to any such  
242 departure, and the court may conduct a review of such placement  
243 unless the new placement is in an adoptive home or other permanent  
244 placement. When a child is returned to foster care or relative  
245 care, the former foster parents or relative placement shall be  
246 given the prior right of return placement in order to eliminate  
247 additional trauma to the child.

248 (10) The Department of Human Services shall provide the  
249 foster parents, grandparents or other relatives with at least a  
250 seventy-two-hour notice of departure for any child placed in their  
251 foster care or relative care, except in emergency circumstances as  
252 determined by the department or where the court orders placement  
253 of the child pursuant to Section 43-21-303. The parent/legal  
254 guardian, grandparents of the child, guardian ad litem and the  
255 court exercising jurisdiction shall be notified in writing when  
256 the child leaves foster care or relative care placement,  
257 regardless of whether the child's departure was planned or



258 unplanned. The only exceptions to giving a written notice to the  
259 parent(s) are when a parent has voluntarily released the child for  
260 adoption or the parent's legal rights to the child have been  
261 terminated through the appropriate court with jurisdiction.

262 (11) The Department of Human Services shall extend the  
263 following rights to persons who provide foster care and relative  
264 care:

265 (a) A clear understanding of their role while providing  
266 care and the roles of the birth parent(s) and the placement agency  
267 in respect to the child in care;

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

271 (c) Involvement in all the agency's crucial decisions  
272 regarding the \* \* \* child as team members who have pertinent  
273 information based on their day-to-day knowledge of the child in  
274 care;

275 (d) Support from the family protection worker or the  
276 family protection specialist in efforts to do a better day-to-day  
277 job in caring for the child and in working to achieve the agency's  
278 objectives for the child and the birth family through provision  
279 of:

280 (i) Pertinent information about the child and the  
281 birth family.

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

284 (iii) Direct interviews between the family  
285 protection worker or specialist and the child, previously  
286 discussed and understood by the foster parents;

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

289 (f) The opportunity to learn and grow in their vocation  
290 through planned \* \* \* education in caring for the child;



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

293 (h) Reimbursement for costs of the \* \* \* child's care  
294 in the form of a board payment based on the age of the \* \* \* child  
295 as prescribed in Section 43-15-17.

296 (12) The Department of Human Services shall require the  
297 following responsibilities from participating persons who provide  
298 foster care and relative care:

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

301 (b) Sharing with the department any information which  
302 may contribute to the care of \* \* \* children;

303 (c) Functioning within the established goals and  
304 objectives to improve the general welfare of the \* \* \* child;

305 (d) Recognizing the problems in \* \* \* home placement  
306 that will require professional advice and assistance and that such  
307 help should be utilized to its full potential;

308 (e) Recognizing that the \* \* \* family who cares for the  
309 child will be one of the primary resources for preparing a child  
310 for any future plans that are made, including return to birth  
311 parent(s), termination of parental rights or  
312 reinstitutionalization;

313 (f) Expressing their view of agency practices which  
314 relate to the \* \* \* child with the appropriate staff member;

315 (g) Understanding that all information shared with the  
316 persons who provide foster care or relative care about the child  
317 and his/her birth parent(s) must be held in the strictest of  
318 confidence;

319 (h) Cooperating with any plan to reunite the \* \* \*  
320 child with his birth family and work with the birth family to  
321 achieve this goal; and

322 (i) Attending dispositional review hearings and  
323 termination of parental rights hearings conducted by a court of



324 competent jurisdiction, or providing their recommendations to the  
325 court in writing.

326 **SECTION 2.** Section 43-15-17, Mississippi Code of 1972, is  
327 amended as follows:

328 43-15-17. (1) The Mississippi Department of Human Services  
329 is authorized to make such payments as may be appropriate for  
330 supportive services to facilitate either the return of children to  
331 their natural parents or their adoption, depending upon and  
332 contingent upon the availability of the State Department of Human  
333 Services' securing or having sufficient funds to render this  
334 supportive service. Upon court order, the parent(s) shall be  
335 responsible for reimbursing the department for any foster care or  
336 kinship care payments made on behalf of his or her child, based  
337 upon financial ability to pay, until such time as there is a  
338 termination of parental rights regarding the child, or the child  
339 is adopted.

340 (2) For those children placed in foster care by the state or  
341 county departments of human services, the department shall make  
342 monthly payments for the support of these children's room and  
343 board, clothing, allowance and personal needs. From and after  
344 July 1, 1998, and subject to the availability of funds  
345 specifically appropriated therefor, the Department of Human  
346 Services' foster care and therapeutic care monthly payment  
347 schedule in effect before that date shall be increased by One  
348 Hundred Dollars (\$100.00) per month, with that minimum payment not  
349 to preclude the department from increasing payments in later years  
350 as funds become available. From and after July 1, 1998, in order  
351 for foster parents to receive the monthly payments authorized  
352 under this subsection (2), the Department of Human Services shall  
353 require foster care placements to be licensed as foster care homes  
354 and shall require prospective foster parents to satisfactorily  
355 complete an appropriate training program that emphasizes the goal



356 of the foster care program to provide stable foster placement  
357 until a permanency outcome is achieved.

358 (3) For a child placed in the care of the child's relative  
359 within the third degree by the state or county departments of  
360 human services, the department shall make monthly payments to  
361 defray the relative's expense of furnishing room and board. The  
362 department's relative care payment shall be in an amount up to one  
363 hundred percent (100%) of the amount of the foster care board  
364 payment. The department may continue to make those payments to  
365 the relative after the department relinquishes legal custody of  
366 the child to the relative. Any such payments for relative care  
367 shall be subject to specific appropriation therefor by the  
368 Legislature.

369 **SECTION 3.** This act shall take effect and be in force from  
370 and after July 1, 2008.

