

Senate Amendments to House Bill No. 772

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE 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:

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

10 43-21-201. (1) Each party shall have the right to be
11 represented by counsel at all stages of the proceedings including,
12 but not limited to, detention, adjudicatory and disposition
13 hearings and parole or probation revocation proceedings. In
14 delinquency matters the court shall appoint legal defense counsel
15 who is not also a guardian ad litem for the same child. If the
16 party is a child, the child shall be represented by counsel at all
17 critical stages: detention, adjudicatory and disposition
18 hearings; parole or probation revocation proceedings; and
19 post-disposition matters. If indigent, the child shall have the
20 right to have counsel appointed for him by the youth court.

21 (2) When a party first appears before the youth court, the
22 judge shall ascertain whether he is represented by counsel and, if
23 not, inform him of his rights including his right to counsel. If
24 the court determines that a parent or guardian who is a party in

25 an abuse, neglect or termination of parental rights proceeding is
26 indigent, the youth court judge may appoint counsel to represent
27 the indigent parent or guardian in the proceeding.

28 (3) An attorney appointed to represent a delinquent child
29 shall be required to complete annual juvenile justice training
30 that is approved by the Mississippi * * * Office of State Public
31 Defender and the Mississippi Commission on Continuing Legal
32 Education. An attorney appointed to represent a parent or
33 guardian in an abuse, neglect or termination of parental rights
34 proceeding shall be required to complete annual training that is
35 approved by the Office of State Public Defender and the
36 Mississippi Commission on Continuing Legal Education. The
37 Mississippi * * * Office of State Public Defender and the
38 Mississippi Commission on Continuing Legal Education shall
39 determine the amount of juvenile justice training and continuing
40 education required to fulfill the requirements of this subsection.
41 The * * * State Public Defender shall maintain a roll of attorneys
42 who have complied with the training requirements and shall enforce
43 the provisions of this subsection. Should an attorney fail to
44 complete the annual training requirement or fail to attend the
45 required training within six (6) months of being appointed to a
46 youth court case, the attorney shall be disqualified to serve and
47 the youth court shall immediately terminate the representation and
48 appoint another attorney. Attorneys appointed by a youth court to
49 five (5) or fewer cases a year are exempt from the requirements of
50 this subsection.

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

55 (5) An attorney shall enter his appearance on behalf of a
56 party in the proceeding by filing a written notice of appearance
57 with the youth court, by filing a pleading, notice or motion
58 signed by counsel or by appearing in open court and advising the
59 youth court that he is representing a party. After counsel has
60 entered his appearance, he shall be served with copies of all
61 subsequent pleadings, motions and notices required to be served on
62 the party he represents. An attorney who has entered his
63 appearance shall not be permitted to withdraw from the case until
64 a timely appeal, if any, has been decided, except by leave of the
65 court then exercising jurisdiction of the cause after notice of
66 his intended withdrawal is served by him on the party he
67 represents.

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

71 **SECTION 2.** Section 99-18-13, Mississippi Code of 1972, is
72 amended as follows:

73 99-18-13. (1) The State Defender is hereby empowered to pay
74 and disburse salaries, employment benefits and charges relating to
75 employment of division staff and to establish their salaries and
76 expenses of the office; to incur and pay travel expenses of staff

77 necessary for the performance of the duties of the office; to rent
78 or lease on such terms as he may think proper such office space as
79 is necessary in the City of Jackson to accommodate the staff; to
80 enter into and perform contracts and to purchase such necessary
81 office supplies and equipment as may be needed for the proper
82 administration of said offices within the funds appropriated for
83 such purpose; and to incur and pay such other expenses as are
84 appropriate and customary to the operation of the office.

85 (2) The State Defender may provide representation to parents
86 or guardians who have been determined by the youth court judge to
87 be indigent and in need of representation in an abuse, neglect or
88 termination of parental rights proceeding or appeal therefrom.
89 Representation may be provided by staff or contract counsel
90 including, but not limited to, by contract with legal services
91 organizations.

92 **SECTION 3.** This act shall take effect and be in force from
93 and after July 1, 2016, and shall stand repealed on June 30, 2016.

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

1 AN ACT TO AMEND SECTION 43-21-201, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A YOUTH COURT JUDGE TO APPOINT COUNSEL TO REPRESENT
3 AN INDIGENT PARENT OR GUARDIAN AND TO REQUIRE APPOINTED COUNSEL TO
4 RECEIVE ANNUAL TRAINING; TO AMEND SECTION 99-18-13, MISSISSIPPI
5 CODE OF 1972, TO AUTHORIZE REPRESENTATION OF INDIGENT PARENTS OR
6 GUARDIANS BY THE STATE DEFENDER; AND FOR RELATED PURPOSES.

SS26\HB772PS.J

Liz Welch
Secretary of the Senate