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Chapter No. 505
16/HR31/R1356SG
CST/NA

HOUSE BILL NO. 772

Originated in House _____ Clerk

HOUSE BILL NO. 772

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

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

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

43-21-201. (1) Each party shall have the right to be represented by counsel at all stages of the proceedings including, but not limited to, detention, adjudicatory and disposition hearings and parole or probation revocation proceedings. In delinquency matters the court shall appoint legal defense counsel who is not also a guardian ad litem for the same child. If the party is a child, the child shall be represented by counsel at all critical stages: detention, adjudicatory and disposition hearings; parole or probation revocation proceedings; and

post-disposition matters. If indigent, the child shall have the right to have counsel appointed for him by the youth court.

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

(3) An attorney appointed to represent a delinquent child shall be required to complete annual juvenile justice training that is approved by the Mississippi * * * Office of State Public Defender and the Mississippi Commission on Continuing Legal Education. An attorney appointed to represent a parent or guardian in an abuse, neglect or termination of parental rights proceeding shall be required to complete annual training that is approved by the Office of State Public Defender and the Mississippi Commission on Continuing Legal Education. The Mississippi * * * Office of State Public Defender and the Mississippi Commission on Continuing Legal Education shall determine the amount of juvenile justice training and continuing education required to fulfill the requirements of this subsection. The * * * State Public Defender shall maintain a roll of attorneys who have complied with the training requirements and shall enforce the provisions of this subsection. Should an attorney fail to

complete the annual training requirement or fail to attend the required training within six (6) months of being appointed to a youth court case, the attorney shall be disqualified to serve and the youth court shall immediately terminate the representation and appoint another attorney. Attorneys appointed by a youth court to five (5) or fewer cases a year are exempt from the requirements of this subsection.

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

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

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

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

99-18-13. (1) The State Defender is hereby empowered to pay and disburse salaries, employment benefits and charges relating to employment of division staff and to establish their salaries and expenses of the office; to incur and pay travel expenses of staff necessary for the performance of the duties of the office; to rent or lease on such terms as he may think proper such office space as is necessary in the City of Jackson to accommodate the staff; to enter into and perform contracts and to purchase such necessary office supplies and equipment as may be needed for the proper administration of said offices within the funds appropriated for such purpose; and to incur and pay such other expenses as are appropriate and customary to the operation of the office.

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE HOUSE OF REPRESENTATIVES
April 19, 2016

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 20, 2016

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

May 13, 2016
11:23 AM