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Chapter No. 501  
16/SS26/R153SG  
cd 1/2/16

**SENATE BILL NO. 2493**

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2493

AN ACT TO CREATE THE SUPPORTING AND STRENGTHENING FAMILIES ACT; TO CREATE NEW SECTION 93-31-1, MISSISSIPPI CODE OF 1972, TO CREATE A SHORT TITLE; TO CREATE NEW SECTION 93-31-3, MISSISSIPPI CODE OF 1972, TO CREATE A TEMPORARY POWER OF ATTORNEY TO PROVIDE FOR DELEGATION BY A PARENT OR GUARDIAN OF THE AUTHORITY OF CARE AND CUSTODY OF A CHILD AND TO ENACT A TIME LIMIT, EXCEPTIONS TO THE POWER, AND FOR RESCINDING THE POWER OF ATTORNEY; TO CREATE NEW SECTION 93-31-5, MISSISSIPPI CODE OF 1972, TO SPECIFY A FORM AND MINIMUM REQUIREMENTS FOR THE POWER OF ATTORNEY; TO CREATE NEW SECTION 93-31-7, MISSISSIPPI CODE OF 1972, TO EXEMPT ATTORNEYS-IN-FACT FROM CERTAIN LICENSURE REQUIREMENTS; TO AMEND SECTIONS 43-15-111 AND 43-16-3, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN INFORMATION BE PROVIDED TO PARENTS AND GUARDIANS IN UNSUBSTANTIATED CASES; AND FOR RELATED PURPOSES.

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

**SECTION 1.** The following shall be codified as Section 93-31-1, Mississippi Code of 1972:

93-31-1. Sections 1 through 4 of this act shall be known and may be cited as the Supporting and Strengthening Families Act.

**SECTION 2.** The following shall be codified as Section 93-31-3, Mississippi Code of 1972:

93-31-3. (1) (a) A parent or legal custodian of a child, by means of a properly executed power of attorney as provided in Section 93-31-5, may delegate to another willing person or persons as attorney-in-fact any of the powers regarding the care and custody of the child other than the following:

(i) The power to consent to marriage or adoption of the child;

(ii) The performance or inducement of an abortion on or for the child; or

(iii) The termination of parental rights to the child.

(b) A delegation of powers under this section does not:

(i) Change or modify any parental or legal rights, obligations, or authority established by an existing court order;

(ii) Deprive any custodial or noncustodial parent or legal guardian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child; or

(iii) Affect a court's ability to determine the best interests of a child.

(c) If both parents are living and have shared custody as a matter of law or under an existing court order, both parents must execute the power of attorney.

(d) A power of attorney under this act must be facilitated by either a child welfare agency that is licensed to

place children for adoption and that is operating under the Safe Families for Children model or another charitable organization that is operating under the Safe Families for Children model. A full criminal history and child abuse and neglect background check must be conducted on any person who is not a grandparent, aunt, uncle, or sibling of the child if the person is:

(i) Designated or proposed to be designated as the attorney-in-fact; or

(ii) Is a person over the age of fifteen (15) who resides in the home of the designated attorney-in-fact.

(2) A power of attorney executed under this act shall not be used for the sole purposes of enrolling a child in a school to participate in the academic or interscholastic athletic programs provided by that school or for any other unlawful purposes, except as may be permitted by the federal Every Student Succeeds Act (Public Law 114-95).

(3) The parent or legal custodian of the child has the authority to revoke or withdraw the power of attorney authorized by this section at any time. Upon the termination, expiration, or revocation of the power of attorney, the child must be returned to the custody of the parent or legal custodian as soon as reasonably possible.

(4) Until the authority expires or is revoked or withdrawn by the parent or legal custodian, the attorney-in-fact shall

exercise parental or legal authority on a continuous basis without compensation for the duration of the power of attorney.

(5) The execution of a power of attorney by a parent or legal custodian does not, in the absence of other evidence, constitute abandonment, desertion, abuse, neglect, or any evidence of unfitness as a parent unless the parent or legal custodian fails to take custody of the child or execute a new power of attorney after the one-year time limit, or after a longer time period as allowed for a serving parent, has elapsed. Nothing in this subsection prevents the Department of Human Services or law enforcement from investigating allegations of abuse, abandonment, desertion, neglect or other mistreatment of a child.

(6) When the custody of a child is transferred by a power of attorney under this act, the child is not considered to have been placed in foster care and the attorney-in-fact will not be subject to any of the requirements or licensing regulations for foster care or other regulations relating to out-of-home care for children and will not be subject to any statutes or regulations dealing with the licensing or regulation of foster care homes.

(7) (a) "Serving parent" means a parent who is a member of the Armed Forces of the United States, including any reserve component thereof, or the National Oceanic and Atmospheric Administration Commissioned Officer Corps or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed

Forces of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on state active duty.

(b) A serving parent may delegate the powers designated in subsection (1) of this section for longer than one (1) year if on active-duty service or if scheduled to be on active-duty service. The term of delegation, however, may not exceed the term of active-duty service plus thirty (30) days.

**SECTION 3.** The following shall be codified as Section 93-31-5, Mississippi Code of 1972:

93-31-5. (1) The following statutory form of power of attorney to delegate parental or legal authority as authorized by Section 93-31-3 is legally sufficient:

Statutory Form for Power of Attorney to  
Delegate Parental or Legal Custodian Powers

1. "I certify that I am the parent or legal custodian of:

\_\_\_\_\_  
(Full name of minor child)

\_\_\_\_\_  
(Date of birth)

\_\_\_\_\_  
(Full name of minor child)

\_\_\_\_\_  
(Date of birth)

\_\_\_\_\_  
(Full name of minor child)

\_\_\_\_\_  
(Date of birth)

who is/are minor children.

2. I designate \_\_\_\_\_

(Full name of attorney-in-fact)

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(Street address, city, state and zip code of attorney-in-fact)

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(Home phone, work phone and cell phone of attorney-in-fact)

as the attorney-in-fact of each minor child named above.

3. [Complete either Section 3(a) or 3(b)].

(a) I delegate to the attorney-in-fact all of my power and authority regarding the care, custody and property of each minor child named above, including, but not limited to, the right to enroll the child in school, inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function or treatment that may concern the child. This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

OR

(b) I delegate to the attorney-in-fact the following specific powers and responsibilities (write in):

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[If Section 3(b) is completed, Section 3(a) does not apply.]

This delegation shall not include the power or authority to consent to: marriage or adoption of the child, performing or inducing an abortion on or for the child, or the termination of parental rights to the child.

[Complete either 4(a) or 4(b)]

4. (a) This power of attorney is effective for a period not to exceed one (1) year, beginning, \_\_\_\_\_, 20\_\_\_\_, and ending \_\_\_\_\_, 20\_\_\_\_. I reserve the right to revoke this authority at any time.

OR

[Complete either 4(a) or 4(b)]

(b) I am a serving parent as defined in Section 93-31-3, Mississippi Code of 1972. My active-duty service is scheduled to begin on \_\_\_\_\_, 20\_\_\_\_, and is estimated to end on \_\_\_\_\_, 20\_\_\_\_. I reserve the right to revoke this authority at any time. I acknowledge that in no event may this delegation of power last more than one (1) year or the term of my active duty plus thirty (30) days, whichever is longer.

By: \_\_\_\_\_

(Parent/Legal Custodian signature)

5. I hereby accept my designation as attorney-in-fact for the minor child/children specified in this power of attorney.

\_\_\_\_\_  
(Attorney-in-fact signature)

State of \_\_\_\_\_

County of \_\_\_\_\_

ACKNOWLEDGEMENT

Before me, the undersigned, a Notary Public, in and for said county and state on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_ (Name of Parent/Legal Custodian) and \_\_\_\_\_ (Name of Attorney-in-fact), known to me to be the persons who executed this instrument and who acknowledged to me that each executed the same as his or her free and voluntary act and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
(Title and Rank)

My commission expires: \_\_\_\_\_"

(2) A power of attorney that substantially conforms to the form set forth in this section is legally sufficient if the form is properly completed and acknowledged.

**SECTION 4.** The following shall be codified as Section 93-31-7, Mississippi Code of 1972:

93-31-7. When authority is delegated under Section 93-31-3 by a parent or guardian, the attorney-in-fact is not subject to

the requirements of any other child care facility licensing statutes or foster care licensing statutes, and delivery of custody to the attorney-in-fact will not constitute an out-of-home child placement under Title 43, Mississippi Code of 1972.

**SECTION 5.** Section 43-15-111, Mississippi Code of 1972, is amended as follows:

43-15-111. The provisions of this article do not apply to:

( \* \* \*a) A facility or program owned or operated by an agency of the State of Mississippi or United States government;

( \* \* \*b) A facility or program operated by or under an exclusive contract with the Department of Corrections;

( \* \* \*c) Schools and educational programs and facilities, the primary purpose of which is to provide a regular course of study necessary for advancement to a higher educational level or completion of a prescribed course of study, and which may, incident to such educational purposes, provide boarding facilities to the students of such programs.

( \* \* \*d) Any residential child-caring agency and/or child-placing agency operated or conducted under the auspices of a religious institution and meeting the requirements or conditions of this section shall be exempt from the licensure requirements of this article under the following conditions: ( \* \* \*i) such religious institution must have a tax-exempt status as a nonprofit religious institution in accordance with Section 501(c) of the Internal Revenue Code of 1954, as amended, or the real property

owned and exclusively occupied by the religious institution must be exempt from location taxation, and ( \* \* \*ii) the agency or institution must be in compliance with the requirements of the Child Residential Home Notification Act, Section 43-16-1 et seq., Mississippi Code of 1972, and must not be in violation of Section 43-16-21(c) regarding the abuse and/or neglect of any child served by such home who has been adjudicated by the youth court as an abused and/or neglected child. Nothing in this subsection shall prohibit a residential child-caring agency or child-placing agency operated by or conducted under the auspices of a religious institution from obtaining a license pursuant to this article.

(e) Placement of custody under a power of attorney executed under Section 93-31-1 et seq.

**SECTION 6.** Section 43-16-3, Mississippi Code of 1972, is amended as follows:

43-16-3. As used in this chapter, the following definitions shall apply unless the context clearly provides otherwise:

(a) "Child" means a person who has not reached the age of eighteen (18) years or who has not otherwise been legally emancipated.

(b) "Child residential home" means any place, facility or home operated by any person which receives children who are not related to the operators and whose parents or guardians are not residents of the same facility for supervision, care, lodging and

maintenance for twenty-four (24) hours a day, with or without transfer of custody. This term \* \* \* does not include:

(i) Residential homes \* \* \* licensed by the \* \* \* Department of Human Services under \* \* \* Section 43-15-5 \* \* \*;

(ii) Any public school \* \* \*;

(iii) Any \* \* \* home operated by a state agency \* \* \*;

(iv) Child care facilities as defined in Section 43-20-5 \* \* \*;

(v) Youth camps as defined in Section 75-74-3 \* \* \*;

(vi) Health care facilities licensed by the State Department of Health \* \* \*; or

(vii) The home of an attorney-in-fact operating under a power of attorney executed under Section 93-31-1 et seq.

(c) "Department" shall mean the State Department of Health.

(d) "Person" shall include an individual, partnership, organization, association or corporation.

**SECTION 7.** Section 43-21-353, Mississippi Code of 1972, is amended as follows:

43-21-353. (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any

other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor.

Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services shall

have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the Department of Human Services shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The Department of Human Services shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information becomes available.

(2) Any report to the Department of Human Services shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries and any other information that might be helpful in establishing the cause of the injury and the identity of the perpetrator.

(3) The Department of Human Services shall maintain a statewide incoming wide-area telephone service or similar service for the purpose of receiving reports of suspected cases of child abuse; provided that any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister,

law enforcement officer or public or private school employee who is required to report under subsection (1) of this section shall report in the manner required in subsection (1).

(4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261 \* \* \* shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.

(5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined

only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Human Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the department:

- (a) The name and address of the child;
- (b) The names and addresses of the parents;
- (c) The name and address of the suspected perpetrator;
- (d) The names and addresses of all witnesses, including the reporting party if a material witness to the abuse;
- (e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and
- (f) What, if any, action is being taken by the Department of Human Services.

(6) In any investigation of a report made under this chapter of the abuse or neglect of a child as defined in Section 43-21-105(m), the Department of Human Services may request the appropriate law enforcement officer with jurisdiction to accompany

the department in its investigation, and in such cases the law enforcement officer shall comply with such request.

(7) Anyone who willfully violates any provision of this section shall be, upon being found guilty, punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not to exceed one (1) year, or both.

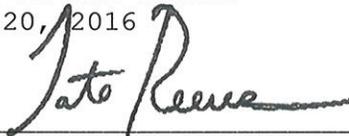
(8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department

of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

(9) If a child protective investigation does not result in an out-of-home placement, a child protective investigator must provide information to the parent or guardians about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis.

**SECTION 8.** This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE SENATE  
April 20, 2016



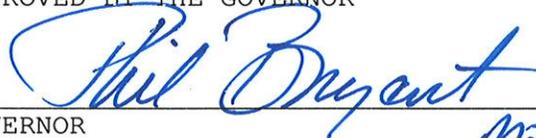
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
April 18, 2016



\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



\_\_\_\_\_  
GOVERNOR

May 13, 2016  
11:01 am