



# State of Mississippi

## A REVIEW OF THE MISSISSIPPI CHILDREN'S TRUST FUND

From the Office of State Auditor  
**Phil Bryant**

July 15, 2002

The Mississippi Legislature established the Mississippi Children's Trust Fund, July 1, 1989. The purpose of the trust was to aid in the prevention of child abuse and neglect. Funding for the Trust is provided by the collection of a one dollar (\$1.00) fee on each original, and copies of birth certificates. The Division of Family and Children's Services of the Mississippi Department of Human Services is responsible for the administration of the Trust.

As of April 30, 2002, funds on deposit in the Trust exceed \$1,000,000. Financial records for the trust indicate revenues exceed costs by as much as 300% in certain years.

Senate Bill 2322 provided for a commission as the governing authority for the Trust. The Division of Family and Children's Services continues to allow the Commission to function as the governing authority for the trust even though the bill authorizing it was vetoed by the Governor, May 5, 1992.

Without regard as to which entity serves as the governing authority for the Trust; it is apparent that policies and procedures are not adequate to ensure these resources are utilized in a timely manner to protect Mississippi's Children.



# TABLE OF CONTENTS

	<u>Page</u>
<b>State Auditor's Report</b> .....	1
<b>Introduction</b>	
Purpose of Performance Review .....	2
Scope .....	2
Method .....	2
<b>Background</b>	
Declaration of Policy .....	3
Establish State Treasury Fund .....	3
Fund Administration .....	4
Revenue Source .....	6
Allowable Expenditures .....	6
Criteria for Evaluating Expenditures .....	7
<b>Findings and Recommendations</b> .....	8
<b>Appendix A</b> - Summary of Revenues and Expenditures .....	9
<b>Appendix B</b> - Response .....	10
<b>Appendix C</b> - Comments on Responses .....	12





**STATE OF MISSISSIPPI**  
**OFFICE OF THE STATE AUDITOR**  
**PHIL BRYANT**  
AUDITOR

July 22, 2002

Ms. Janice B. Brooks  
Executive Director  
Mississippi Department of Human Services  
P.O. Box 352  
Jackson, MS 39205

Dear Ms. Brooks:

The Office of the State Auditor has completed its review of selected disbursements from the Children's Trust Fund. The results of this review are presented to you in the report published herein. The primary objective of this report was to analyze the effectiveness of the use of these public funds.

The review procedures did not detect any instances of noncompliance with state law regarding expenditures made from the Children's Trust Fund. However, our procedures did detect certain matters that should be addressed:

1. The Mississippi Department of Human Services' policies and procedures are inadequate to ensure funds collected by the Children's Trust Fund are expended in a timely manner.
2. The Division of Family and Children's Services is managing the Children's Trust Fund based on Senate Bill 2322 dated May 1992. Senate Bill 2322 was vetoed May 5, 1992, by the Governor.

We have included recommendations to address these concerns in our report. It is our hope the information in this report will be beneficial to all parties interested in the welfare of Mississippi's Children.

Sincerely,

A handwritten signature in cursive script that reads "Phil Bryant".

Phil Bryant  
State Auditor



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## **Introduction**

### *Purpose*

The Office of the State Auditor (OSA), the Performance Audit Division (PAD) initiated an inquiry concerning the Children's Trust Fund administered by the Department of Human Services, Division of Family and Children's Services. The purpose of this review was to analyze the effectiveness of the use of these public funds.

This report will:

- provide background information on the "Children's Trust Fund Act of 1989";
- provide information on the role of the Department of Human Services (MDHS), Division of Family and Children's Services (DFCS), regarding the Children's Trust Fund (CTF); and
- evaluate policies and procedures for distribution of these funds.

### *Scope*

The scope of the performance review included expenditures from the CTF for the period July 1, 2000 to June 30, 2001.

### *Method*

In conducting the review, the PAD performed the following procedures:

- reviewed Mississippi statutes, appropriation bills and Attorney General Opinions;
- reviewed MDHS policies and procedures;
- interviewed MDHS personnel;
- reviewed and analyzed MDHS information relevant to the CTF; and
- performed other necessary procedures.

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## Background

### *State Law*

Section 93-21-303, Mississippi Code of 1972, Annotated, Declaration of Policy: The Legislature of the State of Mississippi finds and declares the policy of this state as follows:

*“(a) The children of Mississippi are its single greatest resource and our children require the utmost protection to guard their future and the future of this state;*

*(b) Child abuse and neglect are a threat to the family unit and impose major expenses on society in addition to the individual and collective damage on the children of this state;*

*(c) There is a need to assist private and public agencies in identifying and establishing community-based educational and service programs for the prevention of child abuse and neglect;*

*(d) An increase in educational, service and prevention programs will assist in breaking the cycle of child abuse and neglect and will assist in reducing the breakdown of families and thus reduce the need for state assistance and intervention and state expenses; and*

*(e) Programs to prevent child abuse and neglect should be partnerships between citizens, local communities and the State of Mississippi.”*

Section 93-21-305, Mississippi Code of 1972, Annotated, Fund established; interest revenue; disbursements; purpose of the fund:

*“(1) There is hereby established in the State Treasury a special fund to be known as the "Mississippi Children's Trust Fund”;*

*(2) The fund shall consist of any monies appropriated to the fund by the Legislature, any donations, gifts and grants from any source, receipts from the birth certificate fees as provided by subsection (2) of Section 41-57-11, and any other monies which may be received from any other source or which may be hereafter provided by law;*

*(3) Monies in the fund shall be used only for the purposes set forth in Sections 93-21-301 through 93-21-311. Interest earned on the investment of monies in the fund shall be returned and deposited to the credit of the fund.;*

*(4) Disbursements of money from the fund shall be on the authorization of the Division of Family and Children's Services of the State Department of Public Welfare; and*

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*(5) The primary purpose of the fund is to encourage and provide financial assistance in the provision of direct services to prevent child abuse and neglect.”*

Section 93-21-307, Mississippi Code of 1972, Annotated, Administration of the fund; powers and duties; The administration of the Mississippi Children’s Trust Fund shall be vested in the Division of Family and Children’s Services of the State Department of Public Welfare. In carrying out the provisions of Section 93-21-301 through 93-21-311, the Division of Family and Children’s Services shall have the following powers and duties:

*“(a) To assist in developing programs aimed at discovering and preventing the many factors causing child abuse and neglect;*

*(b) To prepare and disseminate, including the presentation of, educational programs and materials on child abuse and neglect;*

*(c) To provide educational programs for professionals required by law to make reports of child abuse and neglect;*

*(d) To help coordinate child protective services at the state, regional and local levels with the efforts of other state and voluntary social, medical and legal agencies;*

*(e) To provide advocacy for children in public and private state and local agencies affecting children;*

*(f) To encourage citizen and community awareness as to the needs and problems of children;*

*(g) To facilitate the exchange of information between groups concerned with families and children;*

*(h) To consult with state departments, agencies, commissions and boards to help determine the probable effectiveness, fiscal soundness and need for proposed educational and service programs for the prevention of child abuse and neglect;*

*(i) To adopt rules and regulations, subject to approval of the State Board of Public Welfare, in accordance with the Administrative Procedures Law to discharge its responsibilities;*

*(j) To report annually, through the annual report of the State Department of Public Welfare, to the Governor and the Legislature concerning the division's activities under Sections 93-21-301 through 93-21-311 and the effectiveness of those activities in fostering the prevention of child abuse and neglect;*

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*(k) To recommend to the Governor and the Legislature changes in state programs, statutes, policies and standards which will reduce child abuse and neglect, improve coordination among state agencies which provide services to prevent abuse and neglect, improve the condition of children and assist parents and guardians;*

*(l) To evaluate and strengthen all local, regional and state programs dealing with child abuse and neglect;*

*(m) To prepare and submit annually to the Governor and the Legislature reports evaluating the level and quality of all programs, services and facilities provided to children by state agencies;*

*(n) To contract with public or private nonprofit institutions, organizations, agencies or schools or with qualified individuals for the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect;*

*(o) To determine the eligibility of programs applying for financial assistance and to make grants and loans from the fund for the purposes set forth in Sections 93-21-301 through 93-21-311;*

*(p) To develop, within one (1) year after July 1, 1989, a state plan for the distribution of funds from the trust fund which shall assure that an equal opportunity exists for establishment of prevention programs and for receipt of trust fund money among all geographic areas in this state, and to submit the plan to the Governor and the Legislature and annually thereafter submit revisions thereto as needed;*

*(q) To provide for the coordination and exchange of information on the establishment and maintenance of local prevention programs;*

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*(r) To develop and publicize criteria for the receipt of trust fund money by eligible local prevention programs;*

*(s) To enter into contracts with public or private agencies to fulfill the requirements of Sections 93-21-301 through 93-21-311; and*

*(t) Review, monitor and approve the expenditure of trust fund money by eligible local programs.”*

Section 41-57-11, Mississippi Code of 1972, Annotated, Payment for birth and death certificates:

“(1) Each local registrar shall be paid the sum of One Dollar (\$1.00) for each birth and each death certificate properly made out, and in the manner and on the form required by the State Board of Health...

(2) In addition to any fees established and collected by the State Board of Health for the issuance of original and copies of birth certificates, there shall be charged a fee of One Dollar (\$1.00) for each original and each copy of a birth certificate. This additional fee shall be deposited into the Mississippi Children’s Trust Fund created by Section 93-21-305 and shall be used only as set forth in Sections 93-21-301 through 93-21-311. This additional fee shall not be added to birth certificates furnished free as provided in Section 35-3-9 and 41-57-25.”

Section 93-21-309, Mississippi Code of 1972, Annotated, Purposes for which grants or loans may be made from the fund:

“(1) The division may authorize the disbursement of money in the trust fund in the form of grants or loans for the following purposes, which are listed in order of preference for expenditure:

(a) To assist a community private, nonprofit organization or a local public organization or agency in the establishment and operation of a program or service for the prevention of child abuse and neglect;

(b) To assist in the expansion of an existing community program or service for the prevention of child abuse and neglect;

(c) To assist a community private, nonprofit organization or a local public organization or agency in the establishment and operation of an educational program regarding the problems of child abuse and neglect and the problems of families and children;

(d) To assist in the expansion of an existing community educational program regarding the problems of child abuse and neglect and the problems of families and children;

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(e) To study and evaluate community-based prevention programs, projects or services and educational programs for the problems of families and children; and

(f) Any other similar and related programs, projects, services and educational programs that the division declares will implement the purposes and provisions of Sections 93-21-301 through 93-21-311.

(2) For the purposes of this section, the term "educational programs" includes instructional and demonstration projects the main purpose of which is to disseminate information and techniques for the prevention of child abuse and neglect and the prevention of problems of families and children.

(3) No money in the trust fund shall be expended to provide services, counseling or direct assistance for the voluntary termination of any pregnancy.”

Section 93-21-311, Mississippi Code of 1972, Annotated, Criteria for making grants or loans; In making grants or loans from the trust fund, the division shall consider the degree to which the applicant's proposal meets the following criteria:

“(a) Has as its primary purpose the development and facilitation of a community-based prevention program in a specific geographical area, which program shall utilize trained volunteers and existing community resources where practicable;

(b) Is administered by an organization or group which is composed of or has participation by the county department of public welfare, the county health department, the youth court or chancery court, the office of the district attorney, county or municipal law enforcement personnel, county or municipal school officials, local public or private organizations or agencies which provide programs or services for the prevention of child abuse and neglect and educational programs for the prevention of problems of families and children; and

(c) Demonstrates a willingness and ability and has a plan to provide prevention program models and consultations to appropriate organizations within the community regarding prevention program development and maintenance.”

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## Findings and Recommendations

1. **The Mississippi Department of Human Services' policies and procedures are inadequate to ensure funds collected by the Children's Trust Fund are expended in a timely manner. This has resulted in an accumulation of cash in excess of \$1,000,000, (nearly four times the annual revenues and nearly ten times the annual expenditures for the trust, see Appendix A) in funds intended for the prevention of child abuse and neglect.**

The Mississippi Department of Human Services should establish written policies and procedures to ensure funds collected by the Children's Trust Fund are expended in a timely manner or request that the Legislature revise the fee assessment to more closely reflect current spending levels.

2. **The Division of Family and Children's Services is managing the Children's Trust Fund based on Senate Bill 2322 dated May 1992. Senate Bill 2322 was vetoed May 5, 1992, by the Governor.**

The Mississippi Department of Human Services should request legislation giving the Mississippi Children's Trust Fund Commission legal authority to function as the governing authority for this fund, or allow the Division of Family and Children's Services to administer the fund.

**Appendix A  
Children's Trust Fund  
Revenues and Expenditures  
July 1, 2000 through June 30, 2002**

	FY 00	FY 01	FY 02
Beginning Cash Balance	\$687,542	\$824,969	\$945,134
Revenues:			
Fees	222,031	248,443	194,657
Interest	14,339	16,085	22,750
Total Revenues	236,370	264,528	217,407
Expenditures	98,942	144,363	138,815
Ending Cash Balance	\$824,970	\$945,134	\$1,023,726

Source: MDHS

**NOTE:** Revenues and expenditures, for the fiscal year ended June 30, 2000 (F/Y 00), and the eleven months ended June 30, 2002 (F/Y 02), were not included in the scope of the PAD's performance review procedures and are presented for informational purposes only.

## **Appendix C**

### **Comments on Responses from The Department of Human Services**

The Department of Human Services maintains the Mississippi Children's Trust Fund Commission functions as an advisory Board. Minutes for the Board Meetings of The Mississippi Children's Trust Fund Commission include approval of contracts and other actions which negate the postulate that this Board functions solely as an advisory Board. Furthermore, there is no statutory authority for this Board.