

By: Representative Scott (80th)

To: Juvenile Justice

HOUSE BILL NO. 297

1 AN ACT TO AMEND SECTION 43-21-605 AND 43-21-607, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE DRUG TESTING IN CERTAIN YOUTH COURT
3 DISPOSITIONS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 43-21-605, Mississippi Code of 1972, is
6 amended as follows:

7 43-21-605. (1) In delinquency cases, the disposition order
8 may include any of the following alternatives or combination of
9 the following alternatives, giving precedence in the following
10 sequence:

11 (a) Release the child without further action;

12 (b) Place the child in the custody of the parents, a
13 relative or other persons subject to any conditions and
14 limitations, including restitution, as the youth court may
15 prescribe;

16 (c) Place the child on probation subject to any
17 reasonable and appropriate conditions and limitations, including
18 restitution, as the youth court may prescribe;

19 (d) Order terms of treatment calculated to assist the
20 child and the child's parents or guardian which are within the
21 ability of the parent or guardian to perform;

22 (e) Order terms of supervision which may include
23 participation in a constructive program of service or education or
24 civil fines not in excess of Five Hundred Dollars (\$500.00), or
25 restitution not in excess of actual damages caused by the child to
26 be paid out of his own assets or by performance of services

27 acceptable to the victims and approved by the youth court and
28 reasonably capable of performance within one (1) year;

29 (f) Suspend the child's driver's license by taking and
30 keeping it in custody of the court for not more than one (1) year;

31 (g) Give legal custody of the child to any of the
32 following:

33 (i) The Department of Human Services for
34 appropriate placement; or

35 (ii) Any public or private organization,
36 preferably community-based, able to assume the education, care and
37 maintenance of the child, which has been found suitable by the
38 court; or

39 (iii) The Department of Human Services for
40 placement in a wilderness training program or a state-supported
41 training school, except that no child under the age of ten (10)
42 years shall be committed to a state training school. The training
43 school may retain custody of the child until the child's twentieth
44 birthday but for no longer. The superintendent of a state
45 training school may parole a child at any time he may deem it in
46 the best interest and welfare of such child. Twenty (20) days
47 prior to such parole, the training school shall notify the
48 committing court of the pending release. The youth court may then
49 arrange subsequent placement after a reconvened disposition
50 hearing except that the youth court may not recommit the child to
51 the training school or any other secure facility without an
52 adjudication of a new offense or probation or parole violation.

53 Prior to assigning the custody of any child to any private
54 institution or agency, the youth court through its designee shall
55 first inspect the physical facilities to determine that they
56 provide a reasonable standard of health and safety for the child.

57 The youth court shall not place a child in the custody of a state
58 training school for truancy, unless such child has been
59 adjudicated to have committed an act of delinquency in addition to
60 truancy;

61 (h) Recommend to the child and the child's parents or
62 guardian that the child attend and participate in the Youth
63 Challenge Program under the Mississippi National Guard, as created

64 in Section 43-27-203, subject to the selection of the child for
65 the program by the National Guard; however, the child must
66 volunteer to participate in the program. The youth court may not
67 order any child to apply or attend the program;

68 (i) (i) Adjudicate the juvenile to the Statewide
69 Juvenile Work Program if the program is established in the court's
70 jurisdiction. The juvenile and his parents or guardians must sign
71 a waiver of liability in order to participate in the work program.
72 The judge will coordinate with the youth services counselors as to
73 placing participants in the work program;

74 (ii) The severity of the crime, whether or not the
75 juvenile is a repeat offender or is a felony offender will be
76 taken into consideration by the judge when adjudicating a juvenile
77 to the work program. The juveniles adjudicated to the work
78 program will be supervised by police officers or reserve officers.
79 The term of service will be from twenty-four (24) to one hundred
80 twenty (120) hours of community service. A juvenile will work the
81 hours to which he was adjudicated on the weekends during school
82 and week days during the summer. Parents are responsible for a
83 juvenile reporting for work. Noncompliance with an order to
84 perform community service will result in a heavier adjudication.
85 A juvenile may be adjudicated to the community service program
86 only two (2) times;

87 (iii) The judge shall assess an additional fine on
88 the juvenile which will be used to pay the costs of implementation
89 of the program and to pay for supervision by police officers and
90 reserve officers. The amount of the fine will be based on the
91 number of hours to which the juvenile has been adjudicated; or

92 (j) Order the child to participate in a youth court
93 work program as provided in Section 43-21-627.

94 (2) In addition to any of the disposition alternatives
95 authorized under subsection (1) of this section, the disposition
96 order in any case in which the child is adjudicated delinquent for

97 an offense under Section 63-11-30 shall include an order denying
98 the driver's license and driving privileges of the child as
99 required under subsection (8) of Section 63-11-30.

100 (3) Fines levied under this chapter shall be paid into the
101 general fund of the county but, in those counties wherein the
102 youth court is a branch of the municipal government, it shall be
103 paid into the municipal treasury.

104 (4) Any institution or agency to which a child has been
105 committed shall give to the youth court any information concerning
106 the child as the youth court may at any time require.

107 (5) The youth court shall not place a child in another
108 school district who has been expelled from a school district for
109 the commission of a violent act. For the purpose of this
110 subsection, "violent act" means any action which results in death
111 or physical harm to another or an attempt to cause death or
112 physical harm to another.

113 (6) The youth court may require drug testing for as part of
114 a disposition order. If an offender is tested positive the court
115 shall require treatment, counseling and random testing. The costs
116 of such tests and treatment shall be paid by the parent, guardian
117 or custodian of the offender.

118 SECTION 2. Section 43-21-607, Mississippi Code of 1972, is
119 amended as follows:

120 43-21-607. (1) In children in need of supervision cases,
121 the disposition order may include any of the following
122 alternatives or combination of the following alternatives, giving
123 precedence in the following sequence:

124 (a) Release the child without further action;

125 (b) Place the child in the custody of the parent, a
126 relative or other person subject to any conditions and limitations
127 as the youth court may prescribe;

128 (c) Place the child under youth court supervision
129 subject to any conditions and limitations the youth court may

130 prescribe;

131 (d) Order terms of treatment calculated to assist the
132 child and the child's parent, guardian or custodian which are
133 within the ability of the parent, guardian or custodian to
134 perform;

135 (e) Order terms of supervision which may include
136 participation in a constructive program of service or education or
137 restitution not in excess of actual damages caused by the child to
138 be paid out of his own assets or by performance of services
139 acceptable to the parties and reasonably capable of performance
140 within one (1) year;

141 (f) Give legal custody of the child to any of the
142 following but in no event to any state training school;

143 (i) The Department of Human Services for
144 appropriate placement which may include a wilderness training
145 program; or

146 (ii) Any private or public organization,
147 preferably community-based, able to assume the education, care and
148 maintenance of the child, which has been found suitable by the
149 court. Prior to assigning the custody of any child to any private
150 institution or agency, the youth court through its designee shall
151 first inspect the physical facilities to determine that they
152 provide a reasonable standard of health and safety for the child;
153 or

154 (g) Order the child to participate in a youth court
155 work program as provided in Section 43-21-627.

156 (2) The court may order drug testing as provided in Section
157 43-21-605(6).

158 SECTION 3. This act shall take effect and be in force from
159 and after July 1, 1999.