

By: Representative Perry

To: Juvenile Justice

HOUSE BILL NO. 766

1 AN ACT TO AMEND SECTION 43-21-159, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE YOUTH COURT SHALL HAVE JURISDICTION OVER
3 IMPLIED CONSENT VIOLATIONS COMMITTED BY MINORS IN THE JURISDICTION
4 OF THE YOUTH COURT; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 43-21-159, Mississippi Code of 1972, is
7 amended as follows:

8 43-21-159. (1) When a person appears before a court other
9 than the youth court, and it is determined that the person is a
10 child under jurisdiction of the youth court, such court shall,
11 unless the jurisdiction of the offense has been transferred to
12 such court as provided in this chapter, or unless the child has
13 previously been the subject of a transfer from the youth court to
14 the circuit court for trial as an adult and was convicted,
15 immediately dismiss the proceeding without prejudice and forward
16 all documents pertaining to the cause to the youth court; and all
17 entries in permanent records shall be expunged. The youth court
18 shall have the power to order and supervise the expunction or the
19 destruction of such records in accordance with Section 43-21-265.

20 The youth court is authorized to expunge the record of any case
21 within its jurisdiction in which an arrest was made, the person
22 arrested was released and the case was dismissed or the charges
23 were dropped or there was no disposition of such case. In cases
24 where the child is charged with a hunting or fishing violation or
25 a traffic violation whether it be any state or federal law, * * *
26 or municipal ordinance or county resolution or where the child is
27 charged with a violation of Section 67-3-70, the appropriate

28 criminal court shall proceed to dispose of the same in the same
29 manner as for other adult offenders and it shall not be necessary
30 to transfer the case to the youth court of the county. Unless the
31 cause has been transferred, or unless the child has previously
32 been the subject of a transfer from the youth court to the circuit
33 court for trial as an adult * * * and was convicted, the youth
34 court shall have power on its own motion to remove jurisdiction
35 from any criminal court of any offense including a hunting or
36 fishing violation, a traffic violation, or a violation of Section
37 67-3-70, committed by a child in a matter under the jurisdiction
38 of the youth court and proceed therewith in accordance with the
39 provisions of this chapter.

40 (2) After conviction and sentence of any child by any other
41 court having original jurisdiction on a misdemeanor charge, and
42 within the time allowed for an appeal of such conviction and
43 sentence, the youth court of the county shall have the full power
44 to stay the execution of the sentence and to release the child on
45 good behavior or on other order as the youth court may see fit to
46 make unless the child has previously been the subject of a
47 transfer from the youth court to the circuit court for trial as an
48 adult and was convicted. When a child is convicted of a
49 misdemeanor and is committed to, incarcerated in or imprisoned in
50 a jail or other place of detention by a criminal court having
51 proper jurisdiction of such charge, such court shall notify the
52 youth court judge or the judge's designee of the conviction and
53 sentence prior to the commencement of such incarceration. The
54 youth court shall have the power to order and supervise the
55 destruction of any records involving children maintained by the
56 criminal court in accordance with Section 43-21-265. However, the
57 youth court shall have the power to set aside a judgment of any
58 other court rendered in any matter over which the youth court has
59 exclusive original jurisdiction, to expunge or destroy the records
60 thereof in accordance with Section 43-21-265, and to order a
61 refund of fines and costs.

62 (3) Nothing in subsections (1) or (2) shall apply to a youth
63 who has a pending charge or a conviction for any crime over which
64 circuit court has original jurisdiction.

65 (4) In any case wherein the defendant is a child as defined
66 in this chapter and of which the circuit court has original
67 jurisdiction, the circuit judge, upon a finding that it would be
68 in the best interest of such child and in the interest of justice,
69 may at any stage of the proceedings prior to the attachment of
70 jeopardy transfer such proceedings to the youth court for further
71 proceedings unless the child has previously been the subject of a
72 transfer from the youth court to the circuit court for trial as an
73 adult and was convicted or has previously been convicted of a
74 crime which was in original circuit court jurisdiction, and the
75 youth court shall, upon acquiring jurisdiction, proceed as
76 provided in this chapter for the adjudication and disposition of
77 delinquent child proceeding proceedings. If the case is not
78 transferred to the youth court and the youth is convicted of a
79 crime by any circuit court, the trial judge shall sentence the
80 youth as though such youth was an adult. The circuit court shall
81 not have the authority to commit such child to the custody of the
82 Department of Youth Services for placement in a state-supported
83 training school.

84 (5) In no event shall a court sentence an offender over the
85 age of eighteen (18) to the custody of the Division of Youth
86 Services for placement in a state-supported training school.

87 (6) When a child's driver's license is suspended by the
88 youth court for any reason, the clerk of the youth court shall
89 report the suspension, without a court order under Section
90 43-21-261, to the Commissioner of Public Safety in the same manner
91 as such suspensions are reported in cases involving adults.

92 (7) No offense involving the use or possession of a firearm
93 by a child who has reached his fifteenth birthday and which, if
94 committed by an adult would be a felony, shall be transferred to
95 the youth court.

96 SECTION 2. This act shall take effect and be in force from
97 and after July 1, 1999.