

By: Representatives King, Davis, Formby,
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To: Juvenile Justice

HOUSE BILL NO. 1092

1 AN ACT TO AMEND SECTION 43-21-621, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE DISCLOSURE OF JUVENILE RECORDS TO A CHILD'S TEACHER
3 WHEN THE YOUTH COURT ORDERS THE CHILD TO ENROLL IN SCHOOL, AND TO
4 REQUIRE SUCH TEACHERS TO BE PROVIDED COUNSELING CONCERNING THE
5 CHILD; TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972, TO
6 AUTHORIZE THE DISCLOSURE OF SUCH JUVENILE RECORDS TO TEACHERS; AND
7 FOR RELATED PURPOSES.

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

9 SECTION 1. Section 43-21-621, Mississippi Code of 1972, is
10 amended as follows:

11 43-21-621. (1) The youth court * * *, in compliance with
12 the laws governing education of children, may order any
13 state-supported public school in its jurisdiction after notice and
14 hearing to enroll or reenroll any compulsory-school-age child in
15 school and may order appropriate educational services. * * *
16 However, * * * the youth court shall not order the enrollment or
17 reenrollment of a student that has been suspended or expelled by a
18 public school pursuant to Section 37-9-71 or 37-7-301 for
19 possession of a weapon on school grounds, for an offense involving
20 a threat to the safety of other persons or for the commission of a
21 violent act. For the purpose of this section, "violent act" means
22 any action which results in death or physical harm to another or
23 an attempt to cause death or physical harm to another. The
24 superintendent of the school district to which such child is
25 ordered * * *, in his discretion, may assign such child to the
26 alternative school program of such school established pursuant to
27 Section 37-13-92. The court shall have jurisdiction to enforce
28 school and education laws. Nothing in this section shall be
29 construed to affect the attendance of a child in a legitimate home

30 instruction program.

31 (2) The youth court may specify the following conditions of
32 probation related to any juvenile ordered to enroll or reenroll in
33 school: That the juvenile maintain passing grades in up to four
34 (4) courses during each grading period and meet with the court
35 counselor and a representative of the school to make a plan for
36 how to maintain those passing grades. The youth court shall
37 require the school to make timely and frequent reports of the
38 juvenile's behavior and academic progress to the court, and the
39 court may require the juvenile's teacher or teachers to submit
40 recommendations for further placement of the juvenile.

41 (3) If the adjudication of delinquency was for an offense
42 involving a threat to the safety of the juvenile or others and
43 school attendance is a condition of probation, the youth court
44 judge shall make a finding that the principal of the juvenile's
45 school should be notified. If the judge orders that the principal
46 be notified, the youth court counselor, within five (5) days or
47 before the juvenile begins to attend school, whichever occurs
48 first, shall notify the principal of the juvenile's school in
49 writing of the nature of the offense and the probation
50 requirements related to school attendance. A principal notified
51 by a juvenile court counselor shall handle the report according to
52 the guidelines and rules adopted by the State Board of Education.

53 (4) Whenever a public school is ordered by the youth court
54 to enroll or reenroll a compulsory-school-age child, or whenever a
55 student enrolled in a public school is convicted of a crime, the
56 teacher or teachers of the student shall be provided complete
57 information regarding the child's criminal activity and judicial
58 sentence. The teacher or teachers also shall be provided
59 sufficient counseling, preparation and support to alleviate any
60 apprehension the teacher or teachers may have regarding the
61 child's presence in the classroom. The school shall assist the
62 teacher or teachers in providing an appropriate education to the
63 student.

64 SECTION 2. Section 43-21-261, Mississippi Code of 1972, is
65 amended as follows:

66 43-21-261. (1) Except as otherwise provided in this
67 section, records involving children shall not be disclosed, other

68 than to necessary staff of the youth court, except pursuant to an
69 order of the youth court specifying the person or persons to whom
70 the records may be disclosed, the extent of the records which may
71 be disclosed and the purpose of the disclosure. Such court orders
72 for disclosure shall be limited to those instances in which the
73 youth court concludes, in its discretion, that disclosure is
74 required for the best interests of the child, the public safety or
75 the functioning of the youth court and then only to the following
76 persons:

77 (a) The judge of another youth court or member of
78 another youth court staff;

79 (b) The court of the parties in a child custody or
80 adoption cause in another court;

81 (c) A judge of any other court or members of another
82 court staff;

83 (d) Representatives of a public or private agency
84 providing supervision or having custody of the child under order
85 of the youth court;

86 (e) Any person engaged in a bona fide research purpose,
87 provided that no information identifying the subject of the
88 records shall be made available to the researcher unless it is
89 absolutely essential to the research purpose and the judge gives
90 prior written approval, and the child, through his or her
91 representative, gives permission to release the information;

92 (f) The Mississippi Employment Security Commission, or
93 its duly authorized representatives, for the purpose of a child's
94 enrollment into the Job Corps Training Program as authorized by
95 Title IV of the Comprehensive Employment Training Act of 1973 (29
96 USCS Section 923 et seq.). However, no records, reports,
97 investigations or information derived therefrom pertaining to
98 child abuse or neglect shall be disclosed; * * *

99 (g) To any person pursuant to a finding by a judge of
100 the youth court of compelling circumstances affecting the health
101 or safety of a child and that such disclosure is in the best

102 interests of the child; and

103 (h) The teacher or teachers of the child whenever a
104 public school is ordered by the youth court to enroll or reenroll
105 a compulsory-school-age child under Section 43-21-621, or whenever
106 a student enrolled in a public school is convicted of a crime.

107 Law enforcement agencies may disclose information to the
108 public concerning the taking of a child into custody for the
109 commission of a delinquent act without the necessity of an order
110 from the youth court. The information released shall not identify
111 the child or his address unless the information involves a child
112 convicted as an adult.

113 (2) Any records involving children which are disclosed under
114 an order of the youth court and the contents thereof shall be kept
115 confidential by the person or agency to whom the record is
116 disclosed except as provided in the order. Any further disclosure
117 of any records involving children shall be made only under an
118 order of the youth court as provided in this section.

119 (3) Upon request, the parent, guardian or custodian of the
120 child who is the subject of a youth court cause or any attorney
121 for such parent, guardian or custodian, shall have the right to
122 inspect any record, report or investigation which is to be
123 considered by the youth court at a hearing, except that the
124 identity of the reporter shall not be released, nor the name of
125 any other person where the person or agency making the information
126 available finds that disclosure of the information would be likely
127 to endanger the life or safety of such person.

128 (4) Upon request, the child who is the subject of a youth
129 court cause shall have the right to have his counsel inspect and
130 copy any record, report or investigation which is filed with the
131 youth court.

132 (5) (a) The youth court prosecutor or prosecutors, the
133 county attorney, the district attorney, the youth court defender
134 or defenders, or any attorney representing a child shall have the
135 right to inspect any law enforcement record involving children.

136 (b) The Department of Human Services shall disclose to
137 a county prosecuting attorney or district attorney any and all
138 records resulting from an investigation into suspected child abuse
139 or neglect when the case has been referred by the Department of
140 Human Services to the county prosecuting attorney or district
141 attorney for criminal prosecution.

142 (c) Agency records made confidential under the
143 provisions of this section may be disclosed to a court of
144 competent jurisdiction.

145 (6) Information concerning an investigation into a report of
146 child abuse or child neglect may be disclosed by the Department of
147 Human Services without order of the youth court to any attorney,
148 physician, dentist, intern, resident, nurse, psychologist, social
149 worker, child care giver, minister, law enforcement officer,
150 public or private school employee making that report pursuant to
151 Section 43-21-353(1) if the reporter has a continuing professional
152 relationship with the child and a need for such information in
153 order to protect or treat the child.

154 (7) Information concerning an investigation into a report of
155 child abuse or child neglect may be disclosed without further
156 order of the youth court to any interagency child abuse task force
157 established in any county or municipality by order of the youth
158 court of that county or municipality.

159 (8) Names and addresses of juveniles twice adjudicated as
160 delinquent for an act which would be a felony if committed by an
161 adult or for the unlawful possession of a firearm shall not be
162 held confidential and shall be made available to the public.

163 (9) Names and addresses of juveniles adjudicated as
164 delinquent for murder, manslaughter, burglary, arson, armed
165 robbery, aggravated assault, any sex offense as defined in Section
166 45-33-1, for any violation of Section 41-29-139(a)(1) or for any
167 violation of Section 63-11-30, shall not be held confidential and
168 shall be made available to the public.

169 (10) The judges of the circuit and county courts, and

170 presentence investigators for the circuit courts, as provided in
171 Section 47-7-9, shall have the right to inspect any youth court
172 records of a person convicted of a crime for sentencing purposes
173 only.

174 (11) The victim of an offense committed by a child who is
175 the subject of a youth court cause shall have the right to be
176 informed of the child's disposition by the youth court.

177 (12) The Classification Committee of the State Department of
178 Corrections, as provided in Section 47-5-103, shall have the right
179 to inspect any youth court records, excluding abuse and neglect
180 records, of any offender in the custody of the department who as a
181 child or minor was a juvenile offender or was the subject of a
182 youth court cause of action, and the State Parole Board, as
183 provided in Section 47-7-17, shall have the right to inspect such
184 records when said offender becomes eligible for parole.

185 (13) The youth court shall notify the Department of Public
186 Safety of the name, and any other identifying information such
187 department may require, of any child who is adjudicated delinquent
188 as a result of a violation of the Uniform Controlled Substances
189 Law.

190 (14) The Administrative Office of Courts shall have the
191 right to inspect any youth court records in order that the number
192 of youthful offenders, abused, neglected, truant and dependent
193 children, as well as children in need of special care and children
194 in need of supervision, may be tracked with specificity through
195 the youth court and adult justice system, and to utilize tracking
196 forms for such purpose.

197 (15) Upon a request by a youth court, the Administrative
198 Office of Courts shall disclose all information at its disposal
199 concerning any previous youth court intakes alleging that a child
200 was a delinquent child, child in need of supervision, child in
201 need of special care, truant child, abused child or neglected
202 child, as well as any previous youth court adjudications for the
203 same and all dispositional information concerning a child who at

204 the time of such request comes under the jurisdiction of the youth
205 court making such request.

206 (16) In every case where an abuse or neglect allegation has
207 been made, the confidentiality provisions of this section shall
208 not apply to prohibit access to a child's records by any state
209 regulatory agency, any state or local prosecutorial agency or law
210 enforcement agency; * * * however, * * * no identifying
211 information concerning the child in question may be released to
212 the public by such agency except as otherwise provided in this
213 section.

214 (17) In every case where there is any indication or
215 suggestion of either abuse or neglect and a child's physical
216 condition is medically labeled as medically "serious" or
217 "critical" or a child dies, the confidentiality provisions of this
218 section shall not apply.

219 (18) Any member of a foster care review board designated by
220 the Department of Human Services shall have the right to inspect
221 youth court records relating to the abuse, neglect or child in
222 need of supervision cases assigned to such member for review.

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