

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2289

By Senator(s) Turner

1 **Amend** by inserting after line 355 the following, renumbering
2 subsequent sections:

3 SECTION *. Section 43-21-157, Mississippi Code of 1972, is
4 amended as follows:

5 43-21-157. (1) If a child who has reached his thirteenth
6 birthday is charged by petition to be a delinquent child, the
7 youth court, either on motion of the youth court prosecutor or on
8 the youth court's own motion, after a hearing as hereinafter
9 provided, may, in its discretion, transfer jurisdiction of the
10 alleged offense described in the petition or a lesser included
11 offense to the criminal court which would have trial jurisdiction
12 of such offense if committed by an adult. The child shall be
13 represented by counsel in transfer proceedings.

14 (2) A motion to transfer shall be filed on a day prior to
15 the date set for the adjudicatory hearing but not more than ten
16 (10) days after the filing of the petition. The youth court may
17 order a transfer study at any time after the motion to transfer is
18 filed. The transfer study and any other social record which the
19 youth court will consider at the transfer hearing shall be made
20 available to the child's counsel prior to the hearing. Summons
21 shall be served in the same manner as other summons under this
22 chapter with a copy of the motion to transfer and the petition
23 attached thereto.

24 (3) The transfer hearing shall be bifurcated. At the
25 transfer hearing, the youth court shall first determine whether
26 probable cause exists to believe that the child committed the
27 alleged offense. For the purpose of the transfer hearing only,
28 the child may, with the assistance of counsel, waive the
29 determination of probable cause.

30 (4) Upon such a finding of probable cause, the youth court
31 may transfer jurisdiction of the alleged offense and the youth if
32 the youth court finds by clear and convincing evidence that there
33 are no reasonable prospects of rehabilitation within the juvenile
34 justice system.

35 (5) The factors which shall be considered by the youth court
36 in determining the reasonable prospects of rehabilitation within
37 the juvenile justice system are:

38 (a) Whether or not the alleged offense constituted a
39 substantial danger to the public;

40 (b) The seriousness of the alleged offense;

41 (c) Whether or not the transfer is required to protect
42 the community;

43 (d) Whether or not the alleged offense was committed in
44 an aggressive, violent, premeditated or willful manner;

45 (e) Whether the alleged offense was against persons or
46 against property, greater weight being given to the offense
47 against persons, especially if personal injury resulted;

48 (f) The sophistication, maturity and educational
49 background of the child;

50 (g) The child's home situation, emotional condition and
51 life-style;

52 (h) The history of the child, including experience with
53 the juvenile justice system, other courts, probation, commitments
54 to juvenile institutions or other placements;

55 (i) Whether or not the child can be retained in the
56 juvenile justice system long enough for effective treatment or

99\SS32\SB2289A.J *SS32/SB2289AJ*

57 rehabilitation;

58 (j) The dispositional resources available to the
59 juvenile justice system;

60 (k) Dispositional resources available to the adult
61 correctional system for the child if treated as an adult;

62 (l) Whether the alleged offense was committed on school
63 property, public or private, or at any school-sponsored event, and
64 constituted a substantial danger to other students;

65 (m) Any other factors deemed relevant by the youth
66 court; and

67 (n) Nothing in this subsection shall prohibit the
68 transfer of jurisdiction of an alleged offense and a child if that
69 child, at the time of the transfer hearing, previously has not
70 been placed in a juvenile institution.

71 (6) If the youth court transfers jurisdiction of the alleged
72 offense to a criminal court, the youth court shall enter a
73 transfer order containing:

74 (a) Facts showing that the youth court had jurisdiction
75 of the cause and of the parties;

76 (b) Facts showing that the child was represented by
77 counsel;

78 (c) Facts showing that the hearing was held in the
79 presence of the child and his counsel;

80 (d) A recital of the findings of probable cause and the
81 facts and reasons underlying the youth court's decision to
82 transfer jurisdiction of the alleged offense;

83 (e) The conditions of custody or release of the child
84 pending criminal court proceedings, including bail or recognizance
85 as the case may justify, as well as a designation of the custodian
86 for the time being; and

87 (f) A designation of the alleged offense transferred
88 and of the court to which the transfer is made and a direction to
89 the clerk to forward for filing in such court a certified copy of

99\SS32\SB2289A.J *SS32/SB2289AJ*

90 the transfer order of the youth court.

91 (7) The testimony of the child respondent at a transfer
92 hearing conducted pursuant to this chapter shall not be admissible
93 against the child in any proceeding other than the transfer
94 hearing.

95 (8) When jurisdiction of an offense is transferred to the
96 circuit court, or when a youth has committed an act which is in
97 original circuit court jurisdiction pursuant to Section
98 43-21-151 * * *, the jurisdiction of the youth court over the
99 youth is forever terminated, except that such jurisdiction is not
100 forever terminated if the circuit court transfers or remands the
101 transferred case to the youth court or if a child who has been
102 transferred to the circuit court or is in the original
103 jurisdiction of the circuit court is not convicted. However, when
104 jurisdiction of an offense is transferred to the circuit court
105 pursuant to this section or when an offense committed by a youth
106 is in original circuit court jurisdiction pursuant to Section
107 43-21-151 * * *, the circuit court shall thereafter assume and
108 retain jurisdiction of any felony offenses committed by such youth
109 without any additional transfer proceedings. Any misdemeanor
110 offenses committed by youth who are in circuit court jurisdiction
111 pursuant to this section or Section 43-21-151 * * * shall be
112 prosecuted in the court which would have jurisdiction over that
113 offense if committed by an adult without any additional transfer
114 proceedings. The circuit court may review the transfer
115 proceedings on motion of the transferred child. Such review shall
116 be on the record of the hearing in the youth court. The circuit
117 court shall remand the offense to the youth court if there is no
118 substantial evidence to support the order of the youth court. The
119 circuit court may also review the conditions of custody or release
120 pending criminal court proceedings.

121 (9) When any youth has been the subject of a transfer to
122 circuit court for an offense committed in any county of the state

99\SS32\SB2289A.J *SS32/SB2289AJ*

123 or has committed any act which is in the original jurisdiction of
124 the circuit court pursuant to Section 43-21-151 * * *, that
125 transfer or original jurisdiction shall be recognized by all other
126 courts of the state and no subsequent offense committed by such
127 youth in any county of the state shall be in the jurisdiction of
128 the youth court unless transferred to the youth court pursuant to
129 Section 43-21-159(3). Transfers from youth courts of other states
130 shall be recognized by the courts of this state and no youth who
131 has a pending charge or a conviction in the adult court system of
132 any other state shall be in the jurisdiction of the youth courts
133 of this state, but such youths shall be in the jurisdiction of the
134 circuit court for any felony committed in this state or in the
135 jurisdiction of the court of competent jurisdiction for any
136 misdemeanor committed in this state.

137 **Further amend** the title by inserting after the semi-colon on line
138 13 the following: "TO AMEND SECTION 43-21-157, MISSISSIPPI CODE
139 OF 1972, TO CORRECT THE INTERNAL REFERENCES WITHIN THE YOUTH COURT
140 ACT TO CLARIFY THE JURISDICTION OF THE YOUTH COURT;"