

HOUSE BILL NO. 324

1 AN ACT TO AMEND SECTION 43-21-159, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT JUVENILES CHARGED WITH A THIRD FELONY OR
3 MISDEMEANOR OFFENSE SHALL BE TRIED AS ADULTS; AND FOR RELATED
4 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, a
26 violation of the Mississippi Implied Consent Law, or municipal
27 ordinance or county resolution or where the child is charged with
28 a violation of Section 67-3-70, or where the child is charged with
29 a third or subsequent felony or misdemeanor charge, the
30 appropriate criminal court shall proceed to dispose of the same in
31 the same manner as for other adult offenders and it shall not be
32 necessary to transfer the case to the youth court of the county.
33 Unless the cause has been transferred, or unless the child has
34 previously been the subject of a transfer from the youth court to
35 the circuit court for trial as an adult, except for violations
36 under the Implied Consent Law, and was convicted, the youth court
37 shall have power on its own motion to remove jurisdiction from any
38 criminal court of any offense including a hunting or fishing
39 violation, a traffic violation, or a violation of Section 67-3-70,
40 committed by a child in a matter under the jurisdiction of the
41 youth court and proceed therewith in accordance with the
42 provisions of this chapter.

43 (2) After conviction and sentence of any child by any other
44 court having original jurisdiction on a misdemeanor charge, and
45 within the time allowed for an appeal of such conviction and
46 sentence, the youth court of the county shall have the full power
47 to stay the execution of the sentence and to release the child on
48 good behavior or on other order as the youth court may see fit to
49 make unless the child has previously been the subject of a
50 transfer from the youth court to the circuit court for trial as an
51 adult and was convicted. When a child is convicted of a
52 misdemeanor and is committed to, incarcerated in or imprisoned in
53 a jail or other place of detention by a criminal court having

54 proper jurisdiction of such charge, such court shall notify the
55 youth court judge or the judge's designee of the conviction and
56 sentence prior to the commencement of such incarceration. The
57 youth court shall have the power to order and supervise the
58 destruction of any records involving children maintained by the
59 criminal court in accordance with Section 43-21-265. However, the
60 youth court shall have the power to set aside a judgment of any
61 other court rendered in any matter over which the youth court has
62 exclusive original jurisdiction, to expunge or destroy the records
63 thereof in accordance with Section 43-21-265, and to order a
64 refund of fines and costs.

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

68 (4) In any case wherein the defendant is a child as defined
69 in this chapter and of which the circuit court has original
70 jurisdiction, the circuit judge, upon a finding that it would be
71 in the best interest of such child and in the interest of justice,
72 may at any stage of the proceedings prior to the attachment of
73 jeopardy transfer such proceedings to the youth court for further
74 proceedings unless the child has previously been the subject of a
75 transfer from the youth court to the circuit court for trial as an
76 adult and was convicted or has previously been convicted of a
77 crime which was in original circuit court jurisdiction, and the
78 youth court shall, upon acquiring jurisdiction, proceed as
79 provided in this chapter for the adjudication and disposition of
80 delinquent child proceeding proceedings. If the case is not
81 transferred to the youth court and the youth is convicted of a

82 crime by any circuit court, the trial judge shall sentence the
83 youth as though such youth was an adult. The circuit court shall
84 not have the authority to commit such child to the custody of the
85 Department of Youth Services for placement in a state-supported
86 training school.

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

90 (6) When a child's driver's license is suspended by the
91 youth court for any reason, the clerk of the youth court shall
92 report the suspension, without a court order under Section
93 43-21-261, to the Commissioner of Public Safety in the same manner
94 as such suspensions are reported in cases involving adults.

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

99 SECTION 2. This act shall take effect and be in force from
100 and after its passage.