

By: Compretta

To: Juvenile Justice

HOUSE BILL NO. 1072  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 43-21-151 AND 43-21-609, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT AFTER A YOUTH COURT GRANTS DURABLE  
3 LEGAL CUSTODY IN NEGLECT AND ABUSE CASES, SUBSEQUENT JUDICIAL  
4 PROCEEDINGS IN WHICH THE YOUTH COURT DOES NOT HAVE ORIGINAL  
5 JURISDICTION SHALL BE IN CHANCERY COURT; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 43-21-151, Mississippi Code of 1972, is  
8 amended as follows:

9 43-21-151. (1) The youth court shall have exclusive  
10 original jurisdiction in all proceedings concerning a delinquent  
11 child, a child in need of supervision, a neglected child, an  
12 abused child or a dependent child except in the following  
13 circumstances:

14 (a) Any act attempted or committed by a child, which if  
15 committed by an adult would be punishable under state or federal  
16 law by life imprisonment or death, will be in the original  
17 jurisdiction of the circuit court;

18 (b) Any act attempted or committed by a child with the  
19 use of a deadly weapon, the carrying of which concealed is  
20 prohibited by Section 97-37-1, or a shotgun or a rifle, which  
21 would be a felony if committed by an adult, will be in the  
22 original jurisdiction of the circuit court; and

23 (c) When a charge of abuse of a child first arises in  
24 the course of a custody action between the parents of the child  
25 already pending in the chancery court and no notice of such abuse  
26 was provided prior to such chancery proceedings, the chancery  
27 court may proceed with the investigation, hearing and

28 determination of such abuse charge as a part of its hearing and  
29 determination of the custody issue as between the parents,  
30 notwithstanding the other provisions of the Youth Court Law. The  
31 proceedings in chancery court on the abuse charge shall be  
32 confidential in the same manner as provided in youth court  
33 proceedings.

34 When a child is expelled from the public schools, the youth  
35 court shall be notified of the act of expulsion and the act or  
36 acts constituting the basis for expulsion.

37 (2) Jurisdiction of the child in the cause shall attach at  
38 the time of the offense and shall continue thereafter for that  
39 offense until the child's twentieth birthday, unless sooner  
40 terminated by order of the youth court. The youth court shall not  
41 have jurisdiction over offenses committed by a child on or after  
42 his eighteenth birthday, or over offenses committed by a child on  
43 or after his seventeenth birthday where such offenses would be a  
44 felony if committed by an adult.

45 (3) No child who has not reached his thirteenth birthday  
46 shall be held criminally responsible or criminally prosecuted for  
47 a misdemeanor or felony; however, the parent, guardian or  
48 custodian of such child may be civilly liable for any criminal  
49 acts of such child. No child under the jurisdiction of the youth  
50 court shall be held criminally responsible or criminally  
51 prosecuted by any court for any act designated as a delinquent  
52 act, unless jurisdiction is transferred to another court under  
53 Section 43-21-157.

54 (4) The youth court shall also have jurisdiction of offenses  
55 committed by a child which have been transferred to the youth  
56 court by an order of a circuit court of this state having original  
57 jurisdiction of the offense, as provided by Section 43-21-159.

58 (5) The youth court shall regulate and approve the use of  
59 teen court as provided in Section 43-21-753.

60 (6) Jurisdiction over subsequent proceedings, in which the  
61 youth court does not have original jurisdiction, after durable  
62 legal custody has been granted as provided in Section 43-21-609  
63 shall be in chancery court.

64 SECTION 2. Section 43-21-609, Mississippi Code of 1972, is

65 amended as follows:

66 43-21-609. In neglect and abuse cases, the disposition order  
67 may include any of the following alternatives, giving precedence  
68 in the following sequence:

69 (a) Release the child without further action;

70 (b) Place the child in the custody of his parents, a  
71 relative or other person subject to any conditions and limitations  
72 as the court may prescribe. If the court finds that temporary  
73 relative placement, adoption or foster care placement is  
74 inappropriate, unavailable or otherwise not in the best interest  
75 of the child, durable legal custody may be granted by the court to  
76 any person subject to any limitations and conditions the court may  
77 prescribe; such durable legal custody will not take effect unless  
78 the child or children have been in the physical custody of the  
79 proposed durable custodians for at least one (1) year under the  
80 supervision of the Department of Human Services. The requirements  
81 of Section 43-21-613 as to disposition review hearings does not  
82 apply to those matters in which the court has granted durable  
83 legal custody. In such cases, the Department of Human Services  
84 shall be released from any oversight or monitoring  
85 responsibilities. After durable legal custody has been granted,  
86 any subsequent proceedings, in which the youth court does not have  
87 original jurisdiction, regarding the child shall be in chancery  
88 court;

89 (c) Order terms of treatment calculated to assist the  
90 child and the child's parent, guardian or custodian which are  
91 within the ability of the parent, guardian or custodian to  
92 perform;

93 (d) Order youth court personnel, the Department of  
94 Human Services or child care agencies to assist the child and the  
95 child's parent, guardian or custodian to secure social or medical  
96 services to provide proper supervision and care of the child;

97 (e) Give legal custody of the child to any of the

98 following but in no event to any state training school:

99                   (i) The Department of Human Services for  
100 appropriate placement; or

101                   (ii) Any private or public organization,  
102 preferably community-based, able to assume the education, care and  
103 maintenance of the child, which has been found suitable by the  
104 court. Prior to assigning the custody of any child to any private  
105 institution or agency, the youth court through its designee shall  
106 first inspect the physical facilities to determine that they  
107 provide a reasonable standard of health and safety for the child.

108           SECTION 3. This act shall take effect and be in force from  
109 and after July 1, 2000.