

By: Representative Scott (80th)

To: Juvenile Justice

HOUSE BILL NO. 1276  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 43-21-605 AND 43-21-607, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE DRUG TESTING IN CERTAIN YOUTH COURT  
3 DISPOSITIONS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 43-21-605, Mississippi Code of 1972, is  
6 amended as follows:

7 43-21-605. (1) In delinquency cases, the disposition order  
8 may include any of the following alternatives:

9 (a) Release the child without further action;

10 (b) Place the child in the custody of the parents, a  
11 relative or other persons subject to any conditions and  
12 limitations, including restitution, as the youth court may  
13 prescribe;

14 (c) Place the child on probation subject to any  
15 reasonable and appropriate conditions and limitations, including  
16 restitution, as the youth court may prescribe;

17 (d) Order terms of treatment calculated to assist the  
18 child and the child's parents or guardian which are within the  
19 ability of the parent or guardian to perform;

20 (e) Order terms of supervision which may include  
21 participation in a constructive program of service or education or  
22 civil fines not in excess of Five Hundred Dollars (\$500.00), or  
23 restitution not in excess of actual damages caused by the child to  
24 be paid out of his own assets or by performance of services  
25 acceptable to the victims and approved by the youth court and  
26 reasonably capable of performance within one (1) year;

27           (f) Suspend the child's driver's license by taking and  
28 keeping it in custody of the court for not more than one (1) year;

29           (g) Give legal custody of the child to any of the  
30 following:

31                 (i) The Department of Human Services for  
32 appropriate placement; or

33                 (ii) Any public or private organization,  
34 preferably community-based, able to assume the education, care and  
35 maintenance of the child, which has been found suitable by the  
36 court; or

37                 (iii) The Department of Human Services for  
38 placement in a wilderness training program or a state-supported  
39 training school, except that no child under the age of ten (10)  
40 years shall be committed to a state training school. The training  
41 school may retain custody of the child until the child's twentieth  
42 birthday but for no longer. The superintendent of a state  
43 training school may parole a child at any time he may deem it in  
44 the best interest and welfare of such child. Twenty (20) days  
45 prior to such parole, the training school shall notify the  
46 committing court of the pending release. The youth court may then  
47 arrange subsequent placement after a reconvened disposition  
48 hearing except that the youth court may not recommit the child to  
49 the training school or any other secure facility without an  
50 adjudication of a new offense or probation or parole violation.  
51 Prior to assigning the custody of any child to any private  
52 institution or agency, the youth court through its designee shall  
53 first inspect the physical facilities to determine that they  
54 provide a reasonable standard of health and safety for the child.  
55 The youth court shall not place a child in the custody of a state  
56 training school for truancy, unless such child has been  
57 adjudicated to have committed an act of delinquency in addition to  
58 truancy;

59           (h) Recommend to the child and the child's parents or  
60 guardian that the child attend and participate in the Youth  
61 Challenge Program under the Mississippi National Guard, as created  
62 in Section 43-27-203, subject to the selection of the child for  
63 the program by the National Guard; however, the child must  
64 volunteer to participate in the program. The youth court may not  
65 order any child to apply or attend the program;

66           (i) (i) Adjudicate the juvenile to the Statewide  
67 Juvenile Work Program if the program is established in the court's  
68 jurisdiction. The juvenile and his parents or guardians must sign  
69 a waiver of liability in order to participate in the work program.  
70 The judge will coordinate with the youth services counselors as to  
71 placing participants in the work program;

72           (ii) The severity of the crime, whether or not the  
73 juvenile is a repeat offender or is a felony offender will be  
74 taken into consideration by the judge when adjudicating a juvenile  
75 to the work program. The juveniles adjudicated to the work  
76 program will be supervised by police officers or reserve officers.  
77 The term of service will be from twenty-four (24) to one hundred  
78 twenty (120) hours of community service. A juvenile will work the  
79 hours to which he was adjudicated on the weekends during school  
80 and week days during the summer. Parents are responsible for a  
81 juvenile reporting for work. Noncompliance with an order to  
82 perform community service will result in a heavier adjudication.  
83 A juvenile may be adjudicated to the community service program  
84 only two (2) times;

85           (iii) The judge shall assess an additional fine on  
86 the juvenile which will be used to pay the costs of implementation  
87 of the program and to pay for supervision by police officers and  
88 reserve officers. The amount of the fine will be based on the  
89 number of hours to which the juvenile has been adjudicated;

90           (j) Order the child to participate in a youth court  
91 work program as provided in Section 43-21-627; or

92           (k) Order the child into a juvenile detention center  
93 operated by the county or into a juvenile detention center  
94 operated by any county with which the county in which the court is  
95 located has entered into a contract for the purpose of housing  
96 delinquents. The time period for such detention cannot exceed  
97 ninety (90) days. The youth court judge may order that the number  
98 of days specified in the detention order be served either  
99 throughout the week or on weekends only.

100           (2) In addition to any of the disposition alternatives  
101 authorized under subsection (1) of this section, the disposition  
102 order in any case in which the child is adjudicated delinquent for  
103 an offense under Section 63-11-30 shall include an order denying  
104 the driver's license and driving privileges of the child as  
105 required under subsection (8) of Section 63-11-30.

106           (3) Fines levied under this chapter shall be paid into the  
107 general fund of the county but, in those counties wherein the  
108 youth court is a branch of the municipal government, it shall be  
109 paid into the municipal treasury.

110           (4) Any institution or agency to which a child has been  
111 committed shall give to the youth court any information concerning  
112 the child as the youth court may at any time require.

113           (5) The youth court shall not place a child in another  
114 school district who has been expelled from a school district for  
115 the commission of a violent act. For the purpose of this  
116 subsection, "violent act" means any action which results in death  
117 or physical harm to another or an attempt to cause death or  
118 physical harm to another.

119           (6) The youth court may require drug testing as part of a  
120 disposition order. If a child tests positive, the court may  
121 require treatment, counseling and random testing, as it deems  
122 appropriate. The costs of such tests shall be paid by the parent,  
123 guardian or custodian of the child unless the court specifically  
124 finds that the parent, guardian or custodian is unable to pay.

125 SECTION 2. Section 43-21-607, Mississippi Code of 1972, is  
126 amended as follows:

127 43-21-607. (1) In children in need of supervision cases,  
128 the disposition order may include any of the following  
129 alternatives or combination of the following alternatives, giving  
130 precedence in the following sequence:

131 (a) Release the child without further action;

132 (b) Place the child in the custody of the parent, a  
133 relative or other person subject to any conditions and limitations  
134 as the youth court may prescribe;

135 (c) Place the child under youth court supervision  
136 subject to any conditions and limitations the youth court may  
137 prescribe;

138 (d) Order terms of treatment calculated to assist the  
139 child and the child's parent, guardian or custodian which are  
140 within the ability of the parent, guardian or custodian to  
141 perform;

142 (e) Order terms of supervision which may include  
143 participation in a constructive program of service or education or  
144 restitution not in excess of actual damages caused by the child to  
145 be paid out of his own assets or by performance of services  
146 acceptable to the parties and reasonably capable of performance  
147 within one (1) year;

148 (f) Give legal custody of the child to any of the  
149 following but in no event to any state training school;

150 (i) The Department of Human Services for  
151 appropriate placement which may include a wilderness training  
152 program; or

153 (ii) Any private or public organization,  
154 preferably community-based, able to assume the education, care and  
155 maintenance of the child, which has been found suitable by the  
156 court. Prior to assigning the custody of any child to any private  
157 institution or agency, the youth court through its designee shall

158 first inspect the physical facilities to determine that they  
159 provide a reasonable standard of health and safety for the child;  
160 or

161 (g) Order the child to participate in a youth court  
162 work program as provided in Section 43-21-627.

163 (2) The court may order drug testing as provided in Section  
164 43-21-605(6).

165 SECTION 3. This act shall take effect and be in force from  
166 and after July 1, 2001.