

By: Representative Malone

To: Penitentiary

HOUSE BILL NO. 1312

1 AN ACT TO AMEND SECTIONS 47-5-99 THROUGH 47-5-104,
2 MISSISSIPPI CODE OF 1972, TO ABOLISH THE CLASSIFICATION COMMITTEES
3 AND CREATE THE CLASSIFICATION HEARING OFFICERS AND DISCIPLINARY
4 HEARING OFFICERS; TO AMEND SECTION 43-21-261 IN CONFORMITY
5 THERETO; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 47-5-99, Mississippi Code of 1972, is
8 amended as follows:

9 47-5-99. There are hereby created classification hearing
10 officers and disciplinary hearing officers of the correctional
11 system to be appointed by the commissioner. * * *

12 SECTION 2. Section 47-5-101, Mississippi Code of 1972, is
13 amended as follows:

14 47-5-101. The classification hearing officers and
15 disciplinary hearing officers shall maintain a record of all
16 actions and orders by minutes * * *. The classification hearing
17 officers and disciplinary hearing officers shall meet on a regular
18 basis * * *.

19 SECTION 3. Section 47-5-103, Mississippi Code of 1972, is
20 amended as follows:

21 47-5-103. The classification hearing officer shall be
22 responsible for assigning a classification to each offender within
23 forty (40) days after the offender's commitment to the custody of
24 the department. The classification shall determine the offender's
25 work duties, living quarters, educational, vocational or other
26 rehabilitation programs, and privileges to be accorded the
27 offender while in custody of the department. The classification
28 hearing officer, in assigning classifications, shall consider the

29 offender's age, offense and surrounding circumstances, the
30 complete record of the offender's criminal history including
31 records of law enforcement agencies or of a youth court regarding
32 that offender's juvenile criminal history, family background,
33 education, practical or employment experience, interests and
34 abilities as evidenced by mental and psychological examination and
35 knowledge obtained by the classification hearing officer in
36 personal interview with the offender. The classification hearing
37 officer shall use the above criteria to assign each offender a
38 classification which will serve and enhance the best interests and
39 general welfare of the offender. The classification hearing
40 officer shall provide the State Parole Board with a copy of the
41 classification assigned to each offender in the custody of the
42 department who is eligible for parole.

43 * * * The classification board, consisting of the
44 commissioner, or designee, deputy commissioner of institutions and
45 the director of offender services may change an action of the
46 classification or disciplinary hearing officer if the board makes
47 a determination that the action of the classification or
48 disciplinary hearing officer was not supported by sufficient
49 factual information. The commissioner, in emergency situations,
50 may suspend the classification of an offender or offenders for a
51 period of not exceeding fifteen (15) days to relieve the emergency
52 situation. The classification of each offender may be reviewed by
53 a classification hearing officer at least once each year. In no
54 case shall an offender serve as a servant in the home of any
55 employee other than authorized by the commissioner.

56 The classification board shall establish substantive and
57 procedural rules and regulations governing the assignment and
58 alteration of inmate classifications, and shall make such rules
59 and regulations available to any offender upon request.

60 SECTION 4. Section 47-5-104, Mississippi Code of 1972, is
61 amended as follows:

62 47-5-104. The commissioner shall designate individual
63 disciplinary hearing officers to hear evidence and make decisions
64 in all cases where an offender has been issued a rule violation
65 report and is subject to being demoted or having earned time taken
66 away. All proceedings conducted by the disciplinary hearing
67 officer shall be taped and retained for at least three (3) years.
68 The commissioner shall not attend any hearings whereby an offender
69 is subject to be demoted or having earned time taken away.

70 SECTION 5. Section 43-21-261, Mississippi Code of 1972, is
71 amended as follows:

72 43-21-261. (1) Except as otherwise provided in this
73 section, records involving children shall not be disclosed, other
74 than to necessary staff of the youth court, except pursuant to an
75 order of the youth court specifying the person or persons to whom
76 the records may be disclosed, the extent of the records which may
77 be disclosed and the purpose of the disclosure. Such court orders
78 for disclosure shall be limited to those instances in which the
79 youth court concludes, in its discretion, that disclosure is
80 required for the best interests of the child, the public safety or
81 the functioning of the youth court and then only to the following
82 persons:

83 (a) The judge of another youth court or member of
84 another youth court staff;

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

87 (c) A judge of any other court or members of another
88 court staff;

89 (d) Representatives of a public or private agency
90 providing supervision or having custody of the child under order
91 of the youth court;

92 (e) Any person engaged in a bona fide research purpose,
93 provided that no information identifying the subject of the
94 records shall be made available to the researcher unless it is

95 absolutely essential to the research purpose and the judge gives
96 prior written approval, and the child, through his or her
97 representative, gives permission to release the information;

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

105 (g) To any person pursuant to a finding by a judge of
106 the youth court of compelling circumstances affecting the health
107 or safety of a child and that such disclosure is in the best
108 interests of the child.

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

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

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

128 available finds that disclosure of the information would be likely
129 to endanger the life or safety of such person.

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

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

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

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

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

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

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

165 (9) Names and addresses of juveniles adjudicated as
166 delinquent for murder, manslaughter, burglary, arson, armed
167 robbery, aggravated assault, any sex offense as defined in Section
168 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
169 violation of Section 63-11-30, shall not be held confidential and
170 shall be made available to the public.

171 (10) The judges of the circuit and county courts, and
172 presentence investigators for the circuit courts, as provided in
173 Section 47-7-9, shall have the right to inspect any youth court
174 records of a person convicted of a crime for sentencing purposes
175 only.

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

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

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

192 (14) The Administrative Office of Courts shall have the
193 right to inspect any youth court records in order that the number

194 of youthful offenders, abused, neglected, truant and dependent
195 children, as well as children in need of special care and children
196 in need of supervision, may be tracked with specificity through
197 the youth court and adult justice system, and to utilize tracking
198 forms for such purpose.

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

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

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

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

224 (19) Information concerning an investigation into a report
225 of child abuse or child neglect may be disclosed without further
226 order of the youth court in any administrative or due process

227 hearing held, pursuant to Section 43-21-257, by the Department of
228 Human Services for individuals whose names will be placed on the
229 central registry as substantiated perpetrators.

230 SECTION 6. This act shall take effect and be in force from
231 and after July 1, 2001.