HOUSE BILL NO. 1312

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

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

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

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

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

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

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

47-5-103. The classification hearing officer shall be responsible for assigning a classification to each offender within forty (40) days after the offender's commitment to the custody of the department. The classification shall determine the offender's work duties, living quarters, educational, vocational or other rehabilitation programs, and privileges to be accorded the offender while in custody of the department. The classification hearing officer, in assigning classifications, shall consider the
offender's age, offense and surrounding circumstances, the complete record of the offender's criminal history including records of law enforcement agencies or of a youth court regarding that offender's juvenile criminal history, family background, education, practical or employment experience, interests and abilities as evidenced by mental and psychological examination and knowledge obtained by the classification hearing officer in personal interview with the offender. The classification hearing officer shall use the above criteria to assign each offender a classification which will serve and enhance the best interests and general welfare of the offender. The classification hearing officer shall provide the State Parole Board with a copy of the classification assigned to each offender in the custody of the department who is eligible for parole.

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

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

SECTION 4. Section 47-5-104, Mississippi Code of 1972, is amended as follows:
47-5-104. The commissioner shall designate individual
disciplinary hearing officers to hear evidence and make decisions
in all cases where an offender has been issued a rule violation
report and is subject to being demoted or having earned time taken
away. All proceedings conducted by the disciplinary hearing
officer shall be taped and retained for at least three (3) years.
The commissioner shall not attend any hearings whereby an offender
is subject to be demoted or having earned time taken away.

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

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

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

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

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

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

(e) Any person engaged in a bona fide research purpose,
provided that no information identifying the subject of the
records shall be made available to the researcher unless it is
absolutely essential to the research purpose and the judge gives
prior written approval, and the child, through his or her
representative, gives permission to release the information;
(f) The Mississippi Employment Security Commission, or
its duly authorized representatives, for the purpose of a child's
enrollment into the Job Corps Training Program as authorized by
Title IV of the Comprehensive Employment Training Act of 1973 (29
USCS Section 923 et seq.). However, no records, reports,
investigations or information derived therefrom pertaining to
child abuse or neglect shall be disclosed; and
(g) To any person pursuant to a finding by a judge of
the youth court of compelling circumstances affecting the health
or safety of a child and that such disclosure is in the best
interests of the child.
Law enforcement agencies may disclose information to the
public concerning the taking of a child into custody for the
commission of a delinquent act without the necessity of an order
from the youth court. The information released shall not identify
the child or his address unless the information involves a child
convicted as an adult.
(2) Any records involving children which are disclosed under
an order of the youth court and the contents thereof shall be kept
confidential by the person or agency to whom the record is
disclosed except as provided in the order. Any further disclosure
of any records involving children shall be made only under an
order of the youth court as provided in this section.
(3) Upon request, the parent, guardian or custodian of the
child who is the subject of a youth court cause or any attorney
for such parent, guardian or custodian, shall have the right to
inspect any record, report or investigation which is to be
considered by the youth court at a hearing, except that the
identity of the reporter shall not be released, nor the name of
any other person where the person or agency making the information
available finds that disclosure of the information would be likely to endanger the life or safety of such person.

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

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

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

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

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

(7) Information concerning an investigation into a report of child abuse or child neglect may be disclosed without further order of the youth court to any interagency child abuse task force established in any county or municipality by order of the youth court of that county or municipality.
(8) Names and addresses of juveniles twice adjudicated as delinquent for an act which would be a felony if committed by an adult or for the unlawful possession of a firearm shall not be held confidential and shall be made available to the public.

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

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

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

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

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

(14) The Administrative Office of Courts shall have the right to inspect any youth court records in order that the number
of youthful offenders, abused, neglected, truant and dependent
children, as well as children in need of special care and children
in need of supervision, may be tracked with specificity through
the youth court and adult justice system, and to utilize tracking
forms for such purpose.

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

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

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

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

(19) Information concerning an investigation into a report
of child abuse or child neglect may be disclosed without further
order of the youth court in any administrative or due process
SECTION 6. This act shall take effect and be in force from and after July 1, 2001.