

By: Senator(s) Huggins

To: Public Health and
Welfare; Judiciary

SENATE BILL NO. 2933

1 AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE INFORMATION TO BE RELEASED UPON THE DEATH OF A
3 CHILD IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES; AND FOR
4 RELATED PURPOSES.

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

6 SECTION 1. Section 43-21-261, Mississippi Code of 1972, is
7 amended as follows:

8 43-21-261. (1) Except as otherwise provided in this
9 section, records involving children shall not be disclosed, other
10 than to necessary staff of the youth court, except pursuant to an
11 order of the youth court specifying the person or persons to whom
12 the records may be disclosed, the extent of the records which may
13 be disclosed and the purpose of the disclosure. Such court orders
14 for disclosure shall be limited to those instances in which the
15 youth court concludes, in its discretion, that disclosure is
16 required for the best interests of the child, the public safety or
17 the functioning of the youth court and then only to the following
18 persons:

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

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

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

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

28 (e) Any person engaged in a bona fide research purpose,
29 provided that no information identifying the subject of the
30 records shall be made available to the researcher unless it is
31 absolutely essential to the research purpose and the judge gives
32 prior written approval, and the child, through his or her
33 representative, gives permission to release the information;

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

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

45 Law enforcement agencies may disclose information to the
46 public concerning the taking of a child into custody for the
47 commission of a delinquent act without the necessity of an order
48 from the youth court. The information released shall not identify
49 the child or his address unless the information involves a child
50 convicted as an adult.

51 (2) Any records involving children which are disclosed under
52 an order of the youth court and the contents thereof shall be kept
53 confidential by the person or agency to whom the record is
54 disclosed except as provided in the order. Any further disclosure
55 of any records involving children shall be made only under an
56 order of the youth court as provided in this section.

57 (3) Upon request, the parent, guardian or custodian of the
58 child who is the subject of a youth court cause or any attorney
59 for such parent, guardian or custodian, shall have the right to
60 inspect any record, report or investigation which is to be

61 considered by the youth court at a hearing, except that the
62 identity of the reporter shall not be released, nor the name of
63 any other person where the person or agency making the information
64 available finds that disclosure of the information would be likely
65 to endanger the life or safety of such person.

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

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

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

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

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

92 (7) Information concerning an investigation into a report of
93 child abuse or child neglect may be disclosed without further

94 order of the youth court to any interagency child abuse task force
95 established in any county or municipality by order of the youth
96 court of that county or municipality.

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

101 (9) Names and addresses of juveniles adjudicated as
102 delinquent for murder, manslaughter, burglary, arson, armed
103 robbery, aggravated assault, any sex offense as defined in Section
104 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
105 violation of Section 63-11-30, shall not be held confidential and
106 shall be made available to the public.

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

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

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

123 (13) The youth court shall notify the Department of Public
124 Safety of the name, and any other identifying information such
125 department may require, of any child who is adjudicated delinquent

126 as a result of a violation of the Uniform Controlled Substances
127 Law.

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

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

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

151 (17) In every case where there is any indication or
152 suggestion of either abuse or neglect and a child's physical
153 condition is medically labeled as medically "serious" or
154 "critical" or a child dies, the confidentiality provisions of this
155 section shall not apply. In cases of child deaths, the following
156 information may be released by the Mississippi Department of Human
157 Services: (a) child's name; (b) address or location; (c)
158 verification from the Department of Human Services of case status

159 (no case or involvement, case exists, open or active case, case
160 closed); (d) if a case exists, the type of report or case
161 (physical abuse, neglect, etc.), date of intake(s) and
162 investigation(s), and case disposition (substantiated or
163 unsubstantiated). Notwithstanding the aforesaid, the
164 confidentiality provisions of this section shall continue if there
165 is a pending or planned investigation by any local, state or
166 federal governmental agency or institution.

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

171 (19) Information concerning an investigation into a report
172 of child abuse or child neglect may be disclosed without further
173 order of the youth court in any administrative or due process
174 hearing held, pursuant to Section 43-21-257, by the Department of
175 Human Services for individuals whose names will be placed on the
176 central registry as substantiated perpetrators.

177 SECTION 2. This act shall take effect and be in force from
178 and after July 1, 2001.