

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2862: Child in custody of DHS; transferred to regional mental health center for evaluation if believed to be in need of certain treatment.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

13 **SECTION 1.** Section 43-21-603, Mississippi Code of 1972, as
14 amended by House Bill No. 816 and House Bill No. 1500, 2004
15 Regular Session, is amended as follows:

16 **[Until July 1, 2006, this section shall read as follows:]**

17 43-21-603. (1) At the beginning of each disposition
18 hearing, the judge shall inform the parties of the purpose of the
19 hearing.

20 (2) All testimony shall be under oath unless waived by all
21 parties and may be in narrative form. The court may consider any
22 evidence that is material and relevant to the disposition of the
23 cause, including hearsay and opinion evidence. At the conclusion
24 of the evidence, the youth court shall give the parties an
25 opportunity to present oral argument.

26 (3) If the child has been adjudicated a delinquent child,
27 before entering a disposition order, the youth court should
28 consider, among others, the following relevant factors:

- 29 (a) The nature of the offense;
- 30 (b) The manner in which the offense was committed;
- 31 (c) The nature and number of a child's prior
32 adjudicated offenses;
- 33 (d) The child's need for care and assistance;

34 (e) The child's current medical history, including
35 medication and diagnosis;

36 (f) The child's mental health history, which may
37 include, but not be limited to, the Massachusetts Youth Screening
38 Instrument version 2 (MAYSI-2);

39 (g) The child's cumulative record from the last school
40 of record, including special education records, if applicable;

41 (h) Recommendation from the school of record based on
42 areas of remediation needed;

43 (i) Disciplinary records from the school of record; and

44 (j) Records of disciplinary actions outside of the
45 school setting.

46 (4) If the child has been adjudicated a child in need of
47 supervision, before entering a disposition order, the youth court
48 should consider, among others, the following relevant factors:

49 (a) The nature and history of the child's conduct;

50 (b) The family and home situation; and

51 (c) The child's need of care and assistance.

52 (5) If the child has been adjudicated a neglected child or
53 an abused child, before entering a disposition order, the youth
54 court shall consider, among others, the following relevant
55 factors:

56 (a) The child's physical and mental conditions;

57 (b) The child's need of assistance;

58 (c) The manner in which the parent, guardian or
59 custodian participated in, tolerated or condoned the abuse,
60 neglect or abandonment of the child;

61 (d) The ability of a child's parent, guardian or
62 custodian to provide proper supervision and care of a child; and

63 (e) Relevant testimony and recommendations, where
64 available, from the foster parent of the child, the grandparents
65 of the child, the guardian ad litem of the child, representatives

66 of any private care agency that has cared for the child, the
67 social worker or child protection specialist assigned to the case,
68 and any other relevant testimony pertaining to the case.

69 (6) After consideration of all the evidence and the relevant
70 factors, the youth court shall enter a disposition order that
71 shall not recite any of the facts or circumstances upon which the
72 disposition is based, nor shall it recite that a child has been
73 found guilty; but it shall recite that a child is found to be a
74 delinquent child, a child in need of supervision, a neglected
75 child or an abused child.

76 (7) If the youth court orders that the custody or
77 supervision of a child who has been adjudicated abused or
78 neglected be placed with the Department of Human Services or any
79 other person or public or private agency, other than the child's
80 parent, guardian or custodian, the youth court shall find and the
81 disposition order shall recite that:

82 (a) (i) Reasonable efforts have been made to maintain
83 the child within his own home, but that the circumstances warrant
84 his removal and there is no reasonable alternative to custody; or

85 (ii) The circumstances are of such an emergency
86 nature that no reasonable efforts have been made to maintain the
87 child within his own home, and that there is no reasonable
88 alternative to custody; and

89 (b) That the effect of the continuation of the child's
90 residence within his own home would be contrary to the welfare of
91 the child and that the placement of the child in foster care is in
92 the best interests of the child; or

93 (c) Reasonable efforts to maintain the child within his
94 home shall not be required if the court determines that:

95 (i) The parent has subjected the child to
96 aggravated circumstances, including, but not limited to,
97 abandonment, torture, chronic abuse and sexual abuse; or

98 (ii) The parent has been convicted of murder of
99 another child of that parent, voluntary manslaughter of another
100 child of that parent, aided or abetted, attempted, conspired or
101 solicited to commit that murder or voluntary manslaughter, or a
102 felony assault that results in the serious bodily injury to the
103 surviving child or another child of that parent; or

104 (iii) The parental rights of the parent to a
105 sibling have been terminated involuntarily; and

106 (iv) That the effect of the continuation of the
107 child's residence within his own home would be contrary to the
108 welfare of the child and that placement of the child in foster
109 care is in the best interests of the child.

110 Once the reasonable efforts requirement is bypassed, the
111 court shall have a permanency hearing under Section 43-21-613
112 within thirty (30) days of the finding.

113 (8) Upon a written motion by a party, the youth court shall
114 make written findings of fact and conclusions of law upon which it
115 relies for the disposition order. If the disposition ordered by
116 the youth court includes placing the child in the custody of a
117 training school, an admission packet shall be prepared for the
118 child that contains the following information:

119 (a) The child's current medical history, including
120 medications and diagnosis;

121 (b) The child's mental health history;

122 (c) The child's cumulative record from the last school
123 of record, including special education records, if reasonably
124 available;

125 (d) Recommendation from the school of record based on
126 areas of remediation needed;

127 (e) Disciplinary records from the school of record; and

128 (f) Records of disciplinary actions outside of the
129 school setting, if reasonably available.

130 Only individuals who are permitted under the Health Insurance
131 Portability and Accountability Act of 1996 (HIPAA) shall have
132 access to a child's medical records which are contained in an
133 admission packet. The youth court shall provide the admission
134 packet to the training school at or before the child's arrival at
135 the training school. The admittance of any child to a training
136 school shall take place between the hours of 8:00 a.m. and 3:00
137 p.m. on designated admission days.

138 (9) When a child in the jurisdiction of the Youth Court is
139 committed to the custody of the Mississippi Department of Human
140 Services and is believed to be in need of treatment for a mental
141 or emotional disability or infirmity, the Department of Human
142 Services shall file an affidavit alleging that the child is in
143 need of mental health services with the Youth Court. The Youth
144 Court shall refer the child to the appropriate community mental
145 health center for evaluation pursuant to Section 41-21-67. If
146 said pre-screening evaluation recommends residential care, the
147 Youth Court shall proceed with civil commitment pursuant to
148 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
149 Department of Mental Health, once commitment is ordered, shall
150 provide appropriate care, treatment and services for at least as
151 many adolescents as were provided services in fiscal year 2004 in
152 its facilities.

153 **[From and after July 1, 2006, this section shall read as**
154 **follows:]**

155 43-21-603. (1) At the beginning of each disposition
156 hearing, the judge shall inform the parties of the purpose of the
157 hearing.

158 (2) All testimony shall be under oath unless waived by all
159 parties and may be in narrative form. The court may consider any
160 evidence that is material and relevant to the disposition of the
161 cause, including hearsay and opinion evidence. At the conclusion

162 of the evidence, the youth court shall give the parties an
163 opportunity to present oral argument.

164 (3) If the child has been adjudicated a delinquent child,
165 before entering a disposition order, the youth court should
166 consider, among others, the following relevant factors:

- 167 (a) The nature of the offense;
- 168 (b) The manner in which the offense was committed;
- 169 (c) The nature and number of a child's prior
170 adjudicated offenses; and
- 171 (d) The child's need for care and assistance.

172 (4) If the child has been adjudicated a child in need of
173 supervision, before entering a disposition order, the youth court
174 should consider, among others, the following relevant factors:

- 175 (a) The nature and history of the child's conduct;
- 176 (b) The family and home situation; and
- 177 (c) The child's need of care and assistance.

178 (5) If the child has been adjudicated a neglected child or
179 an abused child, before entering a disposition order, the youth
180 court shall consider, among others, the following relevant
181 factors:

- 182 (a) The child's physical and mental conditions;
- 183 (b) The child's need of assistance;
- 184 (c) The manner in which the parent, guardian or
185 custodian participated in, tolerated or condoned the abuse,
186 neglect or abandonment of the child;
- 187 (d) The ability of a child's parent, guardian or
188 custodian to provide proper supervision and care of a child; and
- 189 (e) Relevant testimony and recommendations, where
190 available, from the foster parent of the child, the grandparents
191 of the child, the guardian ad litem of the child, representatives
192 of any private care agency which has cared for the child, the

193 social worker or child protection specialist assigned to the case,
194 and any other relevant testimony pertaining to the case.

195 (6) After consideration of all the evidence and the relevant
196 factors, the youth court shall enter a disposition order which
197 shall not recite any of the facts or circumstances upon which such
198 disposition is based, nor shall it recite that a child has been
199 found guilty; but it shall recite that a child is found to be a
200 delinquent child, a child in need of supervision, a neglected
201 child or an abused child.

202 (7) If the youth court orders that the custody or
203 supervision of a child who has been adjudicated abused or
204 neglected be placed with the Department of Human Services or any
205 other person or public or private agency, other than the child's
206 parent, guardian or custodian, the youth court shall find and the
207 disposition order shall recite that:

208 (a) (i) Reasonable efforts have been made to maintain
209 the child within his own home, but that the circumstances warrant
210 his removal and there is no reasonable alternative to custody; or

211 (ii) The circumstances are of such an emergency
212 nature that no reasonable efforts have been made to maintain the
213 child within his own home, and that there is no reasonable
214 alternative to custody; and

215 (b) That the effect of the continuation of the child's
216 residence within his own home would be contrary to the welfare of
217 the child and that the placement of the child in foster care is in
218 the best interests of the child; or

219 (c) Reasonable efforts to maintain the child within his
220 home shall not be required if the court determines that:

221 (i) The parent has subjected the child to
222 aggravated circumstances, including, but not limited to,
223 abandonment, torture, chronic abuse and sexual abuse; or

224 (ii) The parent has been convicted of murder of
225 another child of such parent, voluntary manslaughter of another
226 child of that parent, aided or abetted, attempted, conspired or
227 solicited to commit that murder or voluntary manslaughter, or a
228 felony assault that results in the serious bodily injury to the
229 surviving child or another child of that parent; or

230 (iii) The parental rights of the parent to a
231 sibling have been terminated involuntarily; and

232 (iv) That the effect of the continuation of the
233 child's residence within his own home would be contrary to the
234 welfare of the child and that placement of the child in foster
235 care is in the best interests of the child.

236 Once the reasonable efforts requirement is bypassed, the
237 court shall have a permanency hearing under Section 43-21-613
238 within thirty (30) days of the finding.

239 (8) Upon a written motion by a party, the youth court shall
240 make written findings of fact and conclusions of law upon which it
241 relies for the disposition order.

242 (9) When a child in the jurisdiction of the Youth Court is
243 committed to the custody of the Mississippi Department of Human
244 Services and is believed to be in need of treatment for a mental
245 or emotional disability or infirmity, the Department of Human
246 Services shall file an affidavit alleging that the child is in
247 need of mental health services with the Youth Court. The Youth
248 Court shall refer the child to the appropriate community mental
249 health center for evaluation pursuant to Section 41-21-67. If
250 said pre-screening evaluation recommends residential care, the
251 Youth Court shall proceed with civil commitment pursuant to
252 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
253 Department of Mental Health, once commitment is ordered, shall
254 provide appropriate care, treatment and services for at least as

255 many adolescents as were provided services in fiscal year 2004 in
256 its facilities.

257 **SECTION 2.** This act shall take effect and be in force from
258 and after July 1, 2004.

CONFEREES FOR THE SENATE

X (SIGNED)
Alan Nunnelee

X (SIGNED)
Cindy Hyde-Smith

X (SIGNED)
Gary Jackson

CONFEREES FOR THE HOUSE

X (SIGNED)
George Flaggs, Jr.

X (SIGNED)
Bryant W. Clark

X (SIGNED)
John W. Hines, Sr.