

By: Representative Flaggs

To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 6

1 AN ACT TO CREATE THE DEPARTMENT OF JUVENILE JUSTICE AND THE
2 BOARD OF THE DEPARTMENT OF JUVENILE JUSTICE, WHICH SHALL BE VESTED
3 WITH THE EXCLUSIVE RESPONSIBILITY FOR MANAGEMENT AND CONTROL OF
4 ALL JUVENILE CORRECTIONAL FACILITIES AUTHORIZED BY LAW; TO CHANGE
5 THE NAME OF THE OAKLEY TRAINING SCHOOL TO THE JUVENILE JUSTICE
6 CENTER AT HINDS, AND CHANGE THE NAME OF THE COLUMBIA TRAINING
7 SCHOOL TO THE JUVENILE JUSTICE CENTER AT MARION; TO PROVIDE THAT
8 THE DEPARTMENT SHALL BE HEADED BY AN EXECUTIVE DIRECTOR WHO SHALL
9 BE APPOINTED BY THE BOARD OF JUVENILE JUSTICE; TO PROVIDE THAT ALL
10 RECORDS, PROPERTY FUNDS, OTHER ASSETS AND PERSONNEL OF THE
11 JUVENILE CORRECTIONAL FACILITIES UNDER THE JURISDICTION OF THE
12 OFFICE OF YOUTH SERVICES OF THE DEPARTMENT OF HUMAN SERVICES
13 SHALL BE TRANSFERRED TO THE DEPARTMENT OF JUVENILE JUSTICE; TO
14 PROVIDE A CAP FOR THE NUMBER OF YOUTHS THAT MAY BE HOUSED AT THE
15 CENTERS; TO PROVIDE THAT THE JUVENILE JUSTICE CENTERS AT HINDS AND
16 MARION SHALL HAVE TWO SPECIAL MASTERS FOR HEARINGS REGARDING THE
17 MENTAL STATUS OF YOUTH COMMITTED TO THE CENTERS; TO PROVIDE THAT
18 THE MEDICAL SERVICES DEPARTMENTS AT THE JUVENILE JUSTICE CENTERS
19 SHALL BE OPERATIONAL TWENTY-FOUR HOURS A DAY; TO CREATE THE
20 MISSISSIPPI CHALLENGE PROGRAM FOR BOYS AND GIRLS, AND TO REQUIRE
21 EACH CONGRESSIONAL DISTRICT TO ESTABLISH THE PROGRAMS BY A CERTAIN
22 DATE; TO CREATE THE MISSISSIPPI TRANSITION PROGRAM FOR BOYS AND
23 GIRLS AND TO REQUIRE EACH CONGRESSIONAL DISTRICT TO ESTABLISH THE
24 PROGRAMS BY A CERTAIN DATE; TO ESTABLISH THE JUVENILE DETENTION
25 FACILITIES MONITORING UNIT AND A JUVENILE DETENTION FACILITIES
26 ADVISORY BOARD; TO PROVIDE THAT EVERY COUNTY SHALL ESTABLISH A
27 JUVENILE DRUG COURT BY A CERTAIN DATE; TO AMEND SECTIONS 31-11-3,
28 37-31-65, 37-113-21 AND 37-143-15, MISSISSIPPI CODE OF 1972, IN
29 CONFORMITY THERETO; TO AMEND SECTION 43-14-1, MISSISSIPPI CODE OF
30 1972, TO REQUIRE THAT EACH MAP TEAM SHALL HAVE AN "A" (ADOLESCENT)
31 TEAM TO PROVIDE SERVICES FOR CERTAIN YOUTH OFFENDERS; TO AMEND
32 SECTION 43-14-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
33 TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972, TO PROVIDE
34 THAT UNDER DUAL JURISDICTION PROCEEDINGS THE TERMS "CHILD" AND
35 "YOUTH" APPLY TO CERTAIN YOUTH OVER THE AGE OF EIGHTEEN; TO AMEND
36 SECTION 43-21-109, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL
37 YOUTH DETENTION FACILITIES SHALL BE OPERATED AND ADMINISTERED BY A
38 YOUTH COURT JUDGE; TO AMEND SECTION 43-21-151, MISSISSIPPI CODE OF
39 1972, TO PROVIDE THAT A YOUTH COURT MAY HAVE JURISDICTION OVER A
40 CHILD AFTER HIS OR HER EIGHTEENTH BIRTHDAY IF DUAL JURISDICTION IS
41 APPLIED; TO AMEND SECTION 43-21-157, MISSISSIPPI CODE OF 1972, TO
42 ESTABLISH DUAL JURISDICTION PROCEEDINGS WHERE A CIRCUIT COURT
43 JUDGE MAY IMPOSE A JUVENILE DISPOSITION FOR CERTAIN NONVIOLENT
44 FIRST-TIME YOUTH OFFENDERS; TO AMEND SECTION 43-21-159,
45 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION
46 43-21-315, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN A CHILD
47 IS TAKEN INTO CUSTODY AND IS DETAINED IN A DETENTION FACILITY,
48 SUCH FACILITY SHALL BE OPERATED BY A YOUTH COURT JUDGE; TO AMEND
49 SECTION 43-21-321, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A
50 YOUTH IN A DETENTION CENTER HAS BEEN SCREENED BY CERTAIN MENTAL
51 SCREENING INSTRUMENTS AND IT IS DETERMINED THAT THE YOUTH NEEDS
52 PROFESSIONAL MENTAL HELP, THEN THE CHILD MUST BE DEFERRED TO SUCH

53 HELP WITHIN FORTY-EIGHT HOURS; TO AMEND SECTION 43-21-605,
54 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ONLY CERTAIN DELINQUENT
55 ACTS WILL ALLOW A YOUTH COURT JUDGE TO COMMIT A CHILD TO A
56 JUVENILE JUSTICE CENTER, TO PROVIDE THAT YOUTH COMMITTED TO A
57 JUVENILE JUSTICE CENTER MUST STAY A MINIMUM OF A SCHOOL SEMESTER;
58 TO AMEND SECTIONS 43-27-8 AND 43-27-20, MISSISSIPPI CODE OF 1972,
59 TO CONFORM TO THE PRECEDING PROVISIONS; TO AMEND SECTION
60 43-27-201, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE DIVISION
61 OF YOUTH SERVICES SHALL ESTABLISH AN ADOLESCENT OFFENDER PROGRAM
62 IN EACH COUNTY BY A CERTAIN DATE; TO AMEND SECTION 43-27-203,
63 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI YOUTH
64 CHALLENGE PROGRAM SHALL BE UNDER THE JURISDICTION OF THE
65 DEPARTMENT OF JUVENILE JUSTICE; TO AMEND SECTION 43-27-401,
66 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
67 TO AMEND SECTION 47-5-138, MISSISSIPPI CODE OF 1972, TO EXCLUDE
68 YOUTH FROM THE EIGHTY-FIVE PERCENT RULE WHO ARE UNDER THE AGE OF
69 TWENTY-ONE, AND WHO HAVE COMMITTED NONVIOLENT OFFENSES AND ARE
70 UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS; TO AMEND
71 SECTIONS 47-5-151, 47-7-45, 65-1-37 AND 99-43-3, MISSISSIPPI CODE
72 OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO REPEAL
73 SECTIONS 43-27-10, 43-27-11, 43-27-12, 43-27-22, 43-27-23,
74 43-27-25, 43-27-27, 43-27-29 AND 43-27-35, MISSISSIPPI CODE OF
75 1972, WHICH PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES HAS
76 JURISDICTION BEFORE THE JUVENILE CORRECTIONAL FACILITIES; TO
77 PROVIDE THAT SECTIONS 1 THROUGH 14 OF THIS ACT SHALL STAND
78 REPEALED ON JULY 1, 2010; TO AMEND SECTIONS 9-9-1, 9-9-5, 9-9-11,
79 9-9-19, 9-9-21 AND 9-9-23, MISSISSIPPI CODE OF 1972, TO PROVIDE
80 FOR SINGLE DISTRICT AND MULTICOUNTY DISTRICT COUNTY COURTS; TO
81 PROVIDE RESIDENCE REQUIREMENTS FOR COUNTY JUDGES; TO PROVIDE FOR
82 THE ELECTION OF COUNTY JUDGES; TO PROVIDE FOR COMPENSATION OF
83 COUNTY JUDGES; TO PROVIDE FOR TERMS OF COURT; TO PROVIDE FOR THE
84 JURISDICTION OF COUNTY COURTS; TO AMEND SECTION 25-3-25,
85 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SALARY OF A SHERIFF
86 SHALL NOT BE REDUCED DURING HIS TERM OF OFFICE; TO REPEAL SECTIONS
87 9-9-3, 9-9-9, 9-9-13, 9-9-14, 9-9-15, 9-9-16, 9-9-17, 9-9-37,
88 9-9-39, 9-9-41, 9-9-43 AND 9-9-45, MISSISSIPPI CODE OF 1972, WHICH
89 ALLOW COUNTIES TO ESTABLISH COUNTY COURTS BY AGREEMENT, WHICH
90 RESTRICT THE PRACTICE OF LAW BY A COUNTY JUDGE, WHICH AUTHORIZE
91 CERTAIN MUNICIPALITIES TO SUPPLEMENT THE SALARY OF COUNTY JUDICIAL
92 OFFICERS, WHICH AUTHORIZE ADDITIONAL JUDGESHIPS FOR HARRISON,
93 HINDS, WASHINGTON AND JACKSON COUNTIES AND WHICH PROVIDE METHODS
94 FOR THE ESTABLISHMENT AND ABOLISHING OF COUNTY COURTS AND THE
95 HANDLING OF MATTERS RELATED THERETO; TO AMEND SECTION 9-1-19,
96 MISSISSIPPI CODE OF 1972, TO AUTHORIZE COUNTY COURT JUDGES TO
97 ISSUE WRITS; TO AMEND SECTION 9-1-23, MISSISSIPPI CODE OF 1972, TO
98 REQUIRE COUNTY JUDGES TO LIVE IN THEIR DISTRICTS; TO AMEND SECTION
99 9-1-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT COUNTY JUDGES
100 SHALL NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW; TO AMEND SECTION
101 9-1-35, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SEAL FOR COUNTY
102 COURT; TO AMEND SECTION 9-1-36, MISSISSIPPI CODE OF 1972, TO
103 PROVIDE AN OFFICE ALLOWANCE FOR COUNTY JUDGES; TO PROVIDE FUNDS
104 FOR CHANCERY CLERKS WHO PROVIDE YOUTH COURT SERVICES IN COUNTIES
105 WITHOUT COUNTY COURTS; TO AMEND SECTIONS 9-13-17 AND 9-13-61,
106 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR COURT REPORTERS FOR
107 COUNTY COURTS AND TO PROVIDE FOR THEIR COMPENSATION; TO AMEND
108 SECTION 43-21-107, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
109 PROVISIONS OF THIS ACT; TO AMEND SECTIONS 43-21-111 AND 43-21-117,
110 MISSISSIPPI CODE OF 1972, TO REQUIRE CONTINUING EDUCATION FOR
111 REFEREES AND PROSECUTORS IN YOUTH COURT; TO PROVIDE THAT THE
112 ADMINISTRATIVE OFFICE OF COURTS SHALL MONITOR SUCH CONTINUING
113 EDUCATION; TO AMEND SECTION 43-21-123, MISSISSIPPI CODE OF 1972,
114 TO PROVIDE THAT YOUTH COURT EXPENDITURES SHALL BE ADMINISTERED BY
115 THE ADMINISTRATIVE OFFICE OF COURTS; TO AUTHORIZE THE GOVERNOR TO
116 EXECUTE THE COMPACT FOR JUVENILES; TO PRESCRIBE ITS PURPOSE AND TO
117 DEFINE CERTAIN TERMS; TO CREATE THE INTERSTATE COMMISSION FOR
118 JUVENILES FROM THE COMPACTING STATES AND TO PRESCRIBE ITS POWERS

119 AND DUTIES; TO ESTABLISH THE ORGANIZATION AND OPERATION OF THE
120 INTERSTATE COMMISSION; TO PRESCRIBE THE RULEMAKING FUNCTIONS OF
121 THE INTERSTATE COMMISSION; TO PROVIDE THAT OVERSIGHT, ENFORCEMENT
122 AND DISPUTE RESOLUTION BE DONE BY THE INTERSTATE COMMISSION; TO
123 PROVIDE FOR THE FINANCING OF THE INTERSTATE COMMISSION; TO PROVIDE
124 THAT EACH MEMBER STATE OF THE COMPACT SHALL CREATE A STATE COUNCIL
125 FOR INTERSTATE JUVENILE SUPERVISION; TO PROVIDE FOR THE
126 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT
127 PROCEDURES OF THE COMPACT; TO REPEAL SECTIONS 43-25-1 THROUGH
128 43-25-17, MISSISSIPPI CODE OF 1972, WHICH PROVIDE THE INTERSTATE
129 COMPACT ON JUVENILES; AND FOR RELATED PURPOSES.

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

131 **SECTION 1.** The Legislature finds that:

132 (a) The children and families of the state are the most
133 precious resource and require the state's highest priority and
134 attention;

135 (b) A juvenile justice system that relies primarily on
136 juvenile incarceration in state-supported training schools is
137 adverse to the best interests of the children and families of the
138 state;

139 (c) Juvenile incarceration should be reduced and the
140 savings from the reduction should be reinvested in prevention and
141 early intervention treatment services and alternative sanctions;
142 and

143 (d) It is the intent of the Legislature that the
144 Department of Juvenile Justice shall seek funds from the federal
145 government, private foundations and partner with universities and
146 colleges to help ensure that at-risk youth of the state will
147 receive quality services so that they can achieve their true
148 potential.

149 **SECTION 2.** (1) There is created the Department of Juvenile
150 Justice, which shall be supervised and directed by the State Board
151 of Juvenile Justice. From and after July 1, 2005, the name of the
152 Oakley Training School is changed to the Juvenile Justice Center
153 at Hinds, which shall continue to house only males, and the name
154 of the Columbia Training School is changed to the Juvenile Justice
155 Center at Marion, which shall house only females. All
156 administrative changes shall be implemented by July 1, 2006. The

157 Department of Juvenile Justice, which shall be headquartered at
158 the Juvenile Justice Center at Hinds, shall have complete
159 authority and shall provide the requisite supervision for the
160 Juvenile Justice Center at Hinds and the Juvenile Justice Center
161 at Marion.

162 (2) There is created the Board of the Department of Juvenile
163 Justice, which shall be composed of nine (9) board members. It is
164 the intent of the Legislature that the appointments to the board
165 reflect the racial and sexual demographics of the entire state.
166 The initial appointments to the Board of Juvenile Justice shall be
167 for staggered terms as follows:

168 (a) Three (3) members who have expertise in education,
169 corrections and healthcare, and who are appointed by the Governor
170 for a term to expire June 30, 2010;

171 (b) Two (2) members who have expertise in education and
172 business/personnel management, and who are appointed by the
173 Lieutenant Governor for a term to expire June 30, 2009;

174 (c) Two (2) members from the mental health profession,
175 who are appointed by the Speaker of the House of Representatives
176 for terms to expire June 30, 2008; and

177 (d) Two (2) members from the Office of the Attorney
178 General, who are appointed by the Attorney General for a term to
179 expire June 30, 2007.

180 In the event of a vacancy for the initial terms, the
181 Governor, Lieutenant Governor and Speaker of the House of
182 Representatives shall by appointment fill the unexpired initial
183 terms.

184 (3) At the expiration of the original terms of the members
185 appointed by the Governor, Lieutenant Governor, Speaker of the
186 House of Representatives and the Attorney General, each successor
187 member shall be appointed for a term of four (4) years by the
188 Governor.

189 All meetings of the board shall be called by the chairman,

190 except the first meeting of the original board members, which
191 shall be called by the Governor.

192 (4) Each member of the board shall be a citizen of the
193 United States, and a resident of the State of Mississippi, and a
194 qualified elector therein, of integrity and sound and nonpartisan
195 judgment. Each member shall qualify by taking the oath of office
196 as prescribed by Section 28 of the Constitution and shall hold
197 office until his or her successor is appointed. The board shall
198 establish its principal office at Jackson, Mississippi, at which
199 the records of the board shall be kept.

200 (5) The members of the Board of the Department of Juvenile
201 Justice shall be paid a per diem as authorized by Section 25-3-69
202 and shall be reimbursed for necessary and ordinary expenses and
203 mileage incurred while performing their duties as members of the
204 board, at the rate authorized by Section 25-3-41.

205 (6) The members of the board shall take an oath to perform
206 faithfully the duties of their office. The oath shall be
207 administered by a person qualified by law to administer oaths.
208 Within thirty (30) days after taking the oath of office, the first
209 board appointed under this section shall meet for an
210 organizational meeting on call by the Governor. At such meeting
211 and at an organizational meeting in January every odd-numbered
212 year thereafter, the board shall elect from its members a
213 chairman, vice chairman and secretary-treasurer to serve for terms
214 of two (2) years. The board shall adopt rules for transacting its
215 business and keeping records at its first meeting.

216 (7) The members of the board shall adopt rules and
217 regulations not inconsistent with Sections 41-95-1 through
218 41-95-9, in compliance with the Mississippi Administrative
219 Procedures Law, for the conduct of its business and the carrying
220 out of its duties.

221 (8) The members of the board shall hold a monthly regular
222 meeting, and additional meetings may be held upon the call of the

223 chairperson or at the written request of any three (3) members. A
224 majority of the board shall constitute a quorum, and three (3)
225 affirmative votes shall be necessary for adoption or promulgation
226 of any rule, regulation or order. Any member who shall not attend
227 three (3) consecutive regular meetings of the board, for any
228 reason other than illness of such member, shall be removed from
229 office by the Governor. The chairperson of the board shall notify
230 the Governor in writing when any member has failed to attend three
231 (3) consecutive regular meetings.

232 (9) Where a question which has been presented or has arisen
233 to be acted upon by the board directly affects the interest of a
234 member or members of the board, such member or members shall
235 recuse himself or themselves from action upon such question.

236 (10) The board shall adopt an official seal, and may sue and
237 be sued.

238 (11) The members of the board are individually exempt from
239 any civil liability as a result of any action taken by the board.

240 (12) The chief executive, administrative and fiscal officer
241 of the department shall be the executive director of the
242 Department of Juvenile Justice who shall possess the minimum
243 qualifications prescribed for the position by the State Personnel
244 Board. The Board of the Department of Juvenile Justice shall
245 appoint the executive director, who shall serve a five-year term
246 and who may be removed by the board for cause.

247 (13) The executive director shall receive an annual salary
248 fixed by the board, not to exceed the maximum authorized by the
249 State Personnel Board, in addition to all actual, necessary
250 expenses incurred in the discharge of official duties, including
251 mileage as authorized by law.

252 (14) The executive director shall be required, upon assuming
253 the duties of his office, to execute a good and sufficient bond
254 payable to the State of Mississippi in the sum of Two Hundred
255 Fifty Thousand Dollars (\$250,000.00), conditioned upon an accurate

256 accounting for all monies and property coming into his hands. The
257 executive director, upon approval by the board, may require of
258 other officers, employees and agents of the department a good and
259 sufficient bond in such sum as he may determine, subject to the
260 minimum requirements set forth in this subsection, payable to the
261 State of Mississippi upon the same condition. The bonds shall be
262 approved by the board and filed with the Secretary of State, and
263 shall be executed by a surety company authorized to do business
264 under the laws of this state. The premium on any such bond shall
265 be paid by the state out of the support and maintenance fund of
266 the department.

267 (15) The department shall be vested with the exclusive
268 responsibility for management and control of all juvenile
269 correctional facilities authorized by law, and all property
270 belonging to the juvenile correctional facilities, and shall be
271 responsible for the proper care, treatment, feeding, clothing and
272 management of the juveniles in the juvenile correctional
273 facilities.

274 (16) (a) On June 30, 2005, all records, property, funds,
275 other assets and personnel of the juvenile correctional facilities
276 under the jurisdiction of the Office of Youth Services of the
277 Department of Human Services that relates to youth service
278 programs over all state-supported juvenile correctional facilities
279 shall be transferred to the Department of Juvenile Justice.

280 (b) All current and future vacancies of the Department
281 of Juvenile Justice shall be exempted from the State Personnel
282 Board selection process for the period of July 1, 2005, through
283 June 30, 2006. After June 30, 2006, the vacancies shall be filled
284 in accordance with existing State Personnel Board policies and
285 procedures. Candidates for vacant positions must meet all job
286 qualifications and must be compensated in conformity with the
287 Variable Compensation Plan. Except as provided for in this

288 paragraph, the department shall adhere to all State Personnel
289 Board policies and procedures.

290 (17) (a) Beginning July 1, 2006, the Juvenile Justice
291 Center at Hinds will be subject to the following caps:

292 (i) As of July 1, 2006, the center shall be
293 authorized to house a maximum of three hundred sixty-five (365)
294 males;

295 (ii) As of July 1, 2007, the center shall be
296 authorized to house a maximum of two hundred sixty-five (265)
297 males;

298 (iii) As of July 1, 2008, the center shall be
299 authorized to house a maximum of one hundred sixty-five (165)
300 males.

301 (b) Beginning July 1, 2006, the Juvenile Justice Center
302 at Marion will be subject to the following caps:

303 (i) As of July 1, 2006, the center shall be
304 authorized to house a maximum of one hundred fifty-eight (158)
305 females;

306 (ii) As of July 1, 2007, the center shall be
307 authorized to house a maximum of one hundred sixteen (116)
308 females;

309 (iii) As of July 1, 2008, the center shall be
310 authorized to house a maximum of seventy-five (75) females.

311 (18) This section, Section 1 of this act, Section 3 through
312 14 of this act, Sections 31-11-3, 37-31-65, 37-113-21, 37-143-15,
313 43-14-1, 43-14-5, 43-21-105, 43-21-109, 43-21-151, 43-21-157,
314 43-21-159, 43-21-315, 43-21-321, 43-21-605, 43-27-8, 43-27-20,
315 43-27-201, 43-27-203, 43-27-401, 47-5-138, 47-5-151, 47-7-45,
316 65-1-37 and 99-43-3 shall stand repealed on July 1, 2010.

317 **SECTION 3.** (1) The Department of Juvenile Justice shall
318 exercise executive and administrative supervision over all
319 state-owned facilities used for the detention, training, care and
320 treatment of delinquent children properly committed to or confined

321 in those facilities by a court on account of that delinquency.
322 However, executive and administrative supervision under
323 state-owned facilities shall not extend to any institutions and
324 facilities for which executive and administrative supervision has
325 been provided otherwise by law through other agencies.

326 (2) The department shall have exclusive supervisory care,
327 custody and active control of all children properly committed to
328 or confined in its facilities and included in its programs and
329 shall have control of the grounds, buildings and other facilities
330 and properties of those facilities and programs. Any child
331 committed to a facility under the jurisdiction of the department
332 may be transferred by the executive director, in his or her
333 discretion, to any of the other facilities under the jurisdiction
334 of the department.

335 (3) The juvenile correctional facilities under the
336 jurisdiction of the department shall include, but not be limited
337 to, the Columbia Training School created by Chapter 111, Laws of
338 1916, the Oakley Training School created by Chapter 205, Laws of
339 1942, and those facilities authorized by Sections 43-27-201
340 through 43-27-233.

341 (4) The department may receive, hold and use personal, real
342 and mixed property donated to or otherwise acquired by the
343 department, and shall have such other authority as is necessary
344 for the operation of any juvenile correctional facility. The
345 department shall be responsible for the planning, development and
346 coordination of a statewide, comprehensive youth services program
347 designed to train and rehabilitate children in order to prevent,
348 control and retard juvenile delinquency.

349 (5) The department may develop and implement diversified
350 programs and facilities to promote, enhance, provide and assure
351 the opportunities for the successful care, training and treatment
352 of delinquent children properly committed to or confined in any
353 facility under its control. Those programs and facilities may

354 include, but not be limited to, juvenile justice centers, foster
355 homes, halfway houses, forestry camps, regional diagnostic
356 centers, detention centers and other state and local
357 community-based programs and facilities.

358 (6) The department may acquire whatever hazard, casualty or
359 workers' compensation insurance is necessary for any property,
360 real or personal, owned, leased or rented by the department or for
361 any employees or personnel hired by the department and may acquire
362 professional liability insurance on all employees as deemed
363 necessary and proper by the department. All premiums due and
364 payable on account thereof shall be paid out of the funds of the
365 department.

366 **SECTION 4.** (1) The Department of Juvenile Justice shall
367 succeed to the exclusive control of all records, books, papers,
368 equipment and supplies, and all lands, buildings and other real
369 and personal property now or hereafter belonging to or assigned to
370 the use and benefit or under the control of the Juvenile Justice
371 Center at Hinds and the Juvenile Justice Center at Marion, and
372 shall have the exercise and control of the use, distribution and
373 disbursement of all funds, appropriations and taxes now or
374 hereafter in possession, levied, collected or received or
375 appropriated for the use, benefit, support and maintenance of
376 those training schools. The department shall have general
377 supervision of all the affairs of those juvenile justice centers,
378 and the care and conduct of all buildings and grounds, business
379 methods and arrangements of accounts and records, the organization
380 of the administrative plans of each juvenile justice center, and
381 all other matters incident to the proper functioning of the
382 juvenile justice centers.

383 (2) The department shall have full authority over the
384 operation of any and all farms at each of the juvenile justice
385 centers and over the distribution of agricultural, dairy,
386 livestock and any and all other products therefrom and over all

387 funds received from the sale of hogs and livestock. All sums
388 realized from the sale of products manufactured and fabricated in
389 the shops of the vocational departments of the juvenile justice
390 centers shall be placed in the revolving fund of the respective
391 juvenile justice center in which the products were manufactured,
392 fabricated and sold.

393 (3) The department shall be authorized to lease the lands of
394 the juvenile justice centers for oil, gas and mineral exploration,
395 and for such other purposes as the department deems to be
396 appropriate, on such terms and conditions as the department and
397 lessee agree. The granting of any leases for oil, gas and mineral
398 exploration shall be on a public bid basis as prescribed by law.
399 The department may contract with the State Forestry Commission for
400 the proper management of forest lands and the sale of timber, and
401 the department may sell timber and forestry products. The
402 department may expend the net proceeds from incomes from all
403 leases and timber sales exclusively for the instructional purposes
404 or operational expenses, or both, at the juvenile justice centers
405 under its jurisdiction.

406 **SECTION 5.** (1) The Executive Director of the Department of
407 Juvenile Justice shall appoint the individual administrators of
408 the facilities under the jurisdiction of the department who, in
409 turn, shall have full power to select and employ personnel
410 necessary to operate the facility that they direct, subject to the
411 approval of the executive director.

412 (2) In administering the Juvenile Justice Centers at Hinds
413 and Marion under its jurisdiction, the department and the
414 executive director shall have the following duties:

415 (a) To operate and maintain the juvenile justice
416 centers and other facilities as may be needed to properly
417 diagnose, care for, train, educate and rehabilitate children and
418 youths who have been committed to or confined in the centers or
419 who are included in the programs of the centers.

420 (b) To fulfill the objectives of rehabilitation and
421 reformation of the youths confined in the centers, being careful
422 to employ no discipline, training or utilization of time and
423 efforts of the youth that under any condition or in any way
424 interferes with those objectives.

425 (c) To group the youths in the facilities according to
426 age, sex and disciplinary needs with respect to their housing,
427 schooling, training, recreation and work, being careful to prevent
428 injury to the morals or interference with the training and
429 rehabilitation of the younger or correctable youths by those
430 considered to be less amenable to discipline and rehabilitation.

431 **SECTION 6.** The administrators of the juvenile justice
432 centers under the jurisdiction of the Department of Juvenile
433 Justice each may receive free lodging in his respective facility
434 for himself or herself and his or her family, but not free board
435 nor free supplies from the institution. Upon each administrator's
436 election to receive board for himself and family from the
437 facility, the department shall enter on its records in advance the
438 names and ages of the members of the family and fix the charges
439 for their board at the average cost of table board in that
440 community, but in no event at an amount less than the cost of the
441 board to the facility. The amount of the board so fixed shall be
442 paid by the administrator into the State Treasury before his
443 salary for the next succeeding month will be paid. The department
444 shall make a detailed and itemized statement thereof to the
445 Legislature. The same restrictions shall apply to all members of
446 the support staff of the service centers.

447 **SECTION 7.** (1) Academic and vocational training at all
448 facilities under the jurisdiction of the Department of Juvenile
449 Justice shall meet standards prescribed by the State Department of
450 Education based upon standards required for public schools. The
451 department may prescribe such additional requirements as it may
452 from time to time deem necessary. The Department of Juvenile

453 Justice shall request accreditation as a nonpublic school as
454 prescribed in Section 37-17-7, and shall maintain educational
455 standards equivalent to the standards established by the State
456 Department of Education for the state schools as outlined in the
457 Approval Requirements of the State Board of Education for
458 Nonpublic Schools.

459 (2) The State Superintendent of Public Education shall
460 administer the standards related to the high school and elementary
461 school programs. Reports from the State Department of Education
462 evaluating the educational program at all juvenile justice
463 centers and indicating whether or not the program meets the
464 standards as prescribed shall be made directly to the Executive
465 Director of the Department of Juvenile Justice at regularly
466 scheduled meetings. Such State Department of Education
467 supervisory personnel as deemed appropriate shall be utilized for
468 evaluating the programs and for reporting to the executive
469 director.

470 **SECTION 8.** (1) The Juvenile Justice Centers at Hinds and
471 Marion shall each have two (2) special masters assigned to the
472 centers, who are appointed by the Chief Justice of the Mississippi
473 Supreme Court. If after a child is referred to a juvenile justice
474 center of the department and is believed that he or she is
475 mentally ill, suicidal or mentally retarded, then a hearing must
476 be held within forty-eight (48) hours, excluding Saturdays,
477 Sundays and statutory state holidays, to determine proper
478 placement for the child. Such hearing will be held before one (1)
479 of the two (2) special masters that are assigned to each juvenile
480 justice center. No person shall be committed to a juvenile
481 justice center who is mentally disabled or seriously handicapped
482 by mental illness. The department shall establish standards with
483 regard to the physical and mental health of persons that it can
484 accept for commitment.

485 (2) When a child in the jurisdiction of the department is
486 committed to the custody of a juvenile justice center and is
487 believed to be in need of treatment for a mental or emotional
488 disability or infirmity, the department through its special
489 master, as described in this section, shall file an affidavit
490 alleging that the child is in need of mental health service. The
491 special master shall refer the child to the appropriate community
492 mental health center for evaluation pursuant to Section 41-21-67.
493 If the prescreening evaluation recommends residential care, the
494 special master shall proceed with civil commitment pursuant to
495 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
496 Department of Mental Health, once commitment is ordered, shall
497 provide appropriate care treatment and services for at least as
498 many adolescents as were provided services in fiscal year 2005 in
499 its facilities. The Department of Mental Health shall provide
500 appropriate care, treatment and services at the following
501 facilities: Brookhaven Juvenile Rehabilitation Center, Oak Circle
502 at Mississippi State Hospital, East Mississippi State Hospital
503 Adolescent Unit, Specialized Treatment for the Emotionally
504 Disabled in Harrison County and/or other private or other
505 appropriate licensed in-patient facilities.

506 (3) The medical services departments at the Juvenile Justice
507 Centers at Hinds and Marion shall be in operation twenty-four (24)
508 hours a day seven (7) days a week to provide appropriate treatment
509 or training for youth committed to the centers.

510 **SECTION 9.** (1) The Department of Finance and
511 Administration, for and on behalf of the Department of Juvenile
512 Justice and the State of Mississippi, may enter into a purchase
513 contract, a lease-purchase agreement or other similar contract for
514 the acquisition of land, buildings or equipment that would be
515 suitable for use by the Department of Juvenile Justice in
516 providing housing and facilities for youth under its jurisdiction
517 regardless of the ages of those youths and that would assist the

518 Department of Juvenile Justice in the performance of its duties
519 under Sections 1 through 8 of this act. Before entering into any
520 such contract or agreement, the Department of Finance and
521 Administration must first demonstrate to the Public Procurement
522 Review Board satisfactory evidence that the contract or agreement
523 would be economically advantageous to the Department of Juvenile
524 Justices.

525 (2) Acquisition of the property described in subsection (1)
526 of this section shall be made only upon legislative approval or
527 upon approval of the State Bond Commission in accordance with the
528 manner and procedure prescribed in Section 27-104-107.

529 **SECTION 10.** (1) There is created the Mississippi Challenge
530 Program (MCP) for Boys and the Mississippi Challenge Program (MCP)
531 for Girls which shall provide environmentally secure residential
532 services for males and females between the ages of fourteen (14)
533 to seventeen (17) who are at risk of placement in a juvenile
534 justice center. There shall be two (2) regional programs for
535 females and two (2) regional programs for males.

536 Beginning July 1, 2006, the department shall phase in a MCP
537 in each congressional district over a period of four (4) years.
538 The phase in of the MCPS shall be as follows:

539 (a) As of July 1, 2007, the Second Congressional
540 District shall have a MCP for males;

541 (b) As of July 1, 2008, the Third Congressional
542 District shall have a MCP for females;

543 (c) As of July 1, 2009, the Fourth Congressional
544 District shall have a MCP for males; and

545 (d) As of July 1, 2010, the First Congressional District
546 shall have a MCP for females.

547 (2) A nonprofit organization who has competitively bid and
548 won the contract for the MCP, pursuant to subsection (6) of this
549 section, shall implement and administer the MCP and shall
550 promulgate rules and regulations concerning the administration of

551 the program. The nonprofit organization shall prepare written
552 guidelines concerning the nomination and selection process of
553 participants in the program, and such guidelines shall include a
554 list of the factors considered in the selection be established
555 from bids from nonprofit organizations. The MCP shall be a
556 challenge-based program and shall house thirty-five (35) males and
557 thirteen (13) females who shall be housed separately at each
558 regional facility. All program services for males and females
559 shall be separate and shall be held on different sites. The MCP
560 design shall include individual educational, behavior modification
561 and treatment services for all of its residents. The average
562 length of stay for participants in the MCP shall be three (3)
563 months.

564 (3) Participation in the Mississippi Challenge Programs
565 shall be on a voluntary basis. No child may be ordered by any
566 court to participate in the program; however, a youth court judge
567 may refer the program to a child when such program would be
568 sufficient to meet the needs of the child.

569 (4) The nonprofit organization may award an adult high
570 school diploma to each participant who meets the requirements for
571 a general educational development (GED) equivalent under the
572 policies and guidelines of the GED Testing Service of the American
573 Council on Education and any other minimum academic requirements
574 prescribed by the nonprofit organization for graduation from the
575 Mississippi Challenge Program. Participants in the program who do
576 not meet the minimum academic requirements may be awarded a
577 special certificate of attendance. The nonprofit organization
578 shall establish rules and regulations for awarding the adult high
579 school diploma and shall prescribe the form for such diploma and
580 the certificate of attendance.

581 (5) The nonprofit organization may accept any available
582 funds that may be used to defray the expenses of the program
583 including, but not limited to, federal funding, public or private

584 funds and any funds that may be appropriated by the Legislature
585 for that purpose.

586 (6) The Department of Juvenile Justice shall publicly issue
587 a request for proposals to nonprofit organizations for the
588 establishment of the MCP. The request for proposals when issued
589 shall contain terms and conditions relating to price, services
590 needed and such other matters are determined by the department to
591 be appropriate for inclusion or required by law. After responses
592 to the request for proposals have been duly received, the
593 department shall select the lowest and best bids on the basis of
594 price, services needed and other relevant factors and from such
595 proposals, but not limited to the terms thereof negotiate and
596 enter into contract(s) with one or more of the nonprofit
597 organizations submitting proposals.

598 **SECTION 11.** (1) There is created the Mississippi Transition
599 Program (MTP) for Boys and the Mississippi Transition Program
600 (MTP) for Girls which shall provide environmentally secure
601 residential services for males and females between the ages of
602 fourteen (14) to seventeen (17) who are exiting juvenile justice
603 centers or other institutional facilities. There shall be a MTP
604 for females which shall be located in Marion County and the MTP
605 for males shall be located in Hinds County. Youth referred for
606 placement shall be youth on probation, parole or other status and
607 are under the jurisdiction of the department. The program shall
608 include individual educational, behavior modification and
609 treatment for all of its participants.

610 (2) A nonprofit organization who has competitively bid and
611 won the contract for the MTP, pursuant to subsection (5) of this
612 section, shall implement and administer the MTP and shall
613 promulgate rules and regulations concerning the administration of
614 the program. The nonprofit organization shall prepare written
615 guidelines concerning the nomination and selection process of
616 participants in the program, and such guidelines shall include a

617 list of the factors considered in the selection process. The MTP
618 shall be a challenge-based program and shall house thirty (30)
619 males and fifteen (15) females who shall be housed separately at
620 each regional facility. All program services for males and
621 females shall be separate and shall be held on different sites.
622 The MTP design shall include individual educational, behavior
623 modification and treatment services for all of its residents.

624 (3) The nonprofit organization may award an adult high
625 school diploma to each participant who meets the requirements for
626 a general educational development (GED) equivalent under the
627 policies and guidelines of the GED Testing Service of the American
628 Council on Education and any other minimum academic requirements
629 prescribed by the nonprofit organization for graduation from the
630 Mississippi Transition Program. Participants in the program who
631 do not meet the minimum academic requirements may be awarded a
632 special certificate of attendance. The nonprofit organization
633 shall establish rules and regulations for awarding the adult high
634 school diploma and shall prescribe the form for such diploma and
635 the certificate of attendance.

636 (4) The nonprofit organization may accept any available
637 funds that may be used to defray the expenses of the program
638 including, but not limited to, federal funding, public or private
639 funds and any funds that may be appropriated by the Legislature
640 for that purpose.

641 (5) The Department of Juvenile Justice shall publicly issue
642 a request for proposals to nonprofit organizations for the
643 establishment of the MTPs. The request for proposals when issued
644 shall contain terms and conditions relating to price, services
645 needed and such other matters are determined by the department to
646 be appropriate for inclusion or required by law. After responses
647 to the request for proposals have been duly received, the
648 department shall select the lowest and best bids on the basis of
649 price, services needed and other relevant factors and from such

650 proposals, but not limited to the terms thereof negotiate and
651 enter into contract(s) with one or more of the nonprofit
652 organizations submitting proposals.

653 **SECTION 12.** (1) There is established the Juvenile Detention
654 Facilities Monitoring Unit within the Mississippi Department of
655 Public Safety under the Division of Public Safety Planning's
656 Office of Justice Programs. The unit shall inspect all juvenile
657 detention facilities on a quarterly basis. The inspections shall
658 encompass the following:

659 (a) Ensuring and certifying that the juvenile detention
660 facilities are in compliance with the minimum standards of
661 operation, as established in Section 43-21-321;

662 (b) Providing technical assistance and advice to
663 juvenile detention facilities, which will assist the facilities in
664 complying with the minimum standards.

665 (2) Additional duties of the monitoring unit are as follows:

666 (a) To develop specific sanctions in conjunction with
667 and for the approval of the Juvenile Detention Facilities Advisory
668 Board, as created in Section 11 of this act;

669 (b) To conduct an assessment of all juvenile detention
670 facilities and to determine how far each is from coming into
671 compliance with the minimum standards, as established in Section
672 43-21-301(6) and Section 43-21-321; and

673 (c) To develop a strategic plan and a timeline for each
674 juvenile detention facility to come into compliance with the
675 minimum standards as described in paragraph (b) of this
676 subsection.

677 **SECTION 13.** (1) There is established the Juvenile Detention
678 Facilities Advisory Board, which will serve as a permanent
679 advisory and oversight entity to the Juvenile Facilities Detention
680 Monitoring Unit, as created in Section 12 of this act.

681 (2) The advisory board shall consist of nineteen (19)
682 members, each of whom shall serve for a four-year term, as
683 follows:

684 (a) Two (2) representatives of juvenile detention
685 facilities who are appointed by the Commissioner of the Department
686 of Public Safety;

687 (b) One (1) representative of the Office of Youth
688 Services of the Department of Human Services who is appointed by
689 the Executive Director of the Department of Human Services;

690 (c) One (1) representative of the Division of Public
691 Safety Planning of the Department of Public Safety who is not from
692 the Office of Justice Programs, who is appointed by the
693 Commissioner of Public Safety;

694 (d) One (1) representative of the State Department of
695 Health who is appointed by the Executive Director of the State
696 Department of Health;

697 (e) One (1) representative of the Department of Mental
698 Health who is appointed by the Executive Director of the
699 Department of Mental Health;

700 (f) One (1) representative of the Mississippi
701 Association of Supervisors who is appointed by the Director of the
702 Mississippi Association of Supervisors;

703 (g) One (1) representative of the State Department of
704 Education who has expertise in academic programs and services, who
705 is appointed by the State Superintendent of Public Education;

706 (h) One (1) representative of the county sheriffs who
707 is appointed by the President of the Mississippi Sheriff's
708 Association;

709 (i) One (1) representative of a youth advocacy
710 organization or group who is appointed by the Director of the
711 Office of Youth Services of the Department of Human Services;

712 (j) One (1) representative of the Mississippi Council
713 of Youth Court Judges who is appointed by the President of the
714 Mississippi Council of Youth Court Judges;

715 (k) One (1) attorney representative who has experience
716 in youth court matters, who is appointed by the Attorney General;

717 (l) Two (2) members of the Juvenile Justice Committee
718 of the House of Representatives and one (1) parent of a child who
719 is committed or has been committed to a state training school, who
720 are appointed by the Speaker of the House of Representatives;

721 (m) Two (2) members of the Judiciary B Committee of the
722 Senate who are appointed by the Lieutenant Governor;

723 (n) One (1) representative of a faith-based community,
724 who is appointed by the Governor; and

725 (o) One (1) representative from the Mississippi
726 citizenry at large who is appointed by the Governor.

727 (3) The duties of the advisory board are as follows:

728 (a) To periodically review standards for the operation
729 of juvenile detention facilities;

730 (b) To periodically review standards for the
731 appropriate delivery of essential services and programs for youth
732 housed at juvenile detention facilities;

733 (c) To periodically review the training requirements of
734 personnel of the juvenile detention facilities;

735 (d) To review and provide advice to the monitoring
736 unit, as created in Section 11 of this act, as the unit develops
737 strategic plans for compliance, and to work in conjunction with
738 the unit to develop specific sanctions for noncompliance of the
739 minimum standards;

740 (e) To serve in an oversight capacity to the monitoring
741 unit in ensuring that the unit moves toward improving juvenile
742 detention facilities; and

743 (f) To continue to make further recommendations to
744 improve or expand basic standards for juvenile detention
745 facilities.

746 (4) At its first meeting, and every four (4) years
747 thereafter, the advisory board shall elect a chairman and vice
748 chairman from its membership, and shall adopt rules for
749 transacting its business and keeping records. The advisory board
750 may establish an attendance policy, and those members of the
751 advisory board who are consistently absent shall be replaced.

752 (5) If sufficient funds are available to the advisory board
753 for that purpose, members of the advisory board may receive a per
754 diem in the amount provided in Section 25-3-69 for each day
755 engaged in the business of the advisory board, and members of the
756 advisory board other than the legislative members may receive
757 reimbursement for travel expenses incurred while engaged in
758 official business of the advisory board in accordance with Section
759 25-3-41.

760 **SECTION 14.** Beginning July 1, 2006, every county of the
761 state shall establish a juvenile drug court as prescribed in
762 Section 9-23-1 et seq. The phase in of the juvenile drug courts
763 shall occur over a period of four (4) years as follows:

764 (a) As of July 1, 2007, all counties shall have at
765 least one (1) juvenile drug court in the Second Congressional
766 District;

767 (b) As of July 1, 2008, all counties shall have at
768 least one (1) juvenile drug court in the Third Congressional
769 District;

770 (c) As of July 1, 2009, all counties shall have at
771 least one (1) juvenile drug court in the Fourth Congressional
772 District; and

773 (d) As of July 1, 2010, all counties shall have at
774 least one (1) juvenile drug court in the First Congressional
775 District.

776 **SECTION 15.** Section 31-11-3, Mississippi Code of 1972, is
777 amended as follows:

778 31-11-3. (1) The Department of Finance and Administration,
779 for the purposes of carrying out the provisions of this chapter,
780 in addition to all other rights and powers granted by law, shall
781 have full power and authority to employ and compensate architects
782 or other employees necessary for the purpose of making
783 inspections, preparing plans and specifications, supervising the
784 erection of any buildings, and making any repairs or additions as
785 may be determined by the Department of Finance and Administration
786 to be necessary, pursuant to the rules and regulations of the
787 State Personnel Board. The department shall have entire control
788 and supervision of, and determine what, if any, buildings,
789 additions, repairs or improvements are to be made under the
790 provisions of this chapter, subject to the approval of the Public
791 Procurement Review Board.

792 (2) The department shall have full power to erect buildings,
793 make repairs, additions or improvements, and buy materials,
794 supplies and equipment for any of the institutions or departments
795 of the state subject to the approval of the Public Procurement
796 Review Board. In addition to other powers conferred, the
797 department shall have full power and authority as directed by the
798 Legislature, or when funds have been appropriated for its use for
799 these purposes, to:

800 (a) Build a state office building;

801 (b) Build suitable plants or buildings for the use and
802 housing of any state schools or institutions, including the
803 building of plants or buildings for new state schools or
804 institutions, as provided for by the Legislature;

805 (c) Provide state aid for the construction of school
806 buildings;

807 (d) Promote and develop the training of returned
808 veterans of the United States in all sorts of educational and

809 vocational learning to be supplied by the proper educational
810 institution of the State of Mississippi, and in so doing allocate
811 monies appropriated to it for these purposes to the Governor for
812 use by him in setting up, maintaining and operating an office and
813 employing a state director of on-the-job training for veterans and
814 the personnel necessary in carrying out Public Law No. 346 of the
815 United States;

816 (e) Build and equip a hospital and administration
817 building at the Mississippi State Penitentiary;

818 (f) Build and equip additional buildings and wards at
819 the Boswell Retardation Center;

820 (g) Construct a sewage disposal and treatment plant at
821 the state insane hospital, and in so doing acquire additional land
822 as may be necessary, and to exercise the right of eminent domain
823 in the acquisition of this land;

824 (h) Build and equip the Mississippi central market and
825 purchase or acquire by eminent domain, if necessary, any lands
826 needed for this purpose;

827 (i) Build and equip suitable facilities for a training
828 and employing center for the blind;

829 (j) Build and equip a gymnasium at the Juvenile Justice
830 Center at Marion;

831 (k) Approve or disapprove the expenditure of any money
832 appropriated by the Legislature when authorized by the bill making
833 the appropriation;

834 (l) Expend monies appropriated to it in paying the
835 state's part of the cost of any street paving;

836 (m) Sell and convey state lands when authorized by the
837 Legislature, cause the lands to be properly surveyed and platted,
838 execute all deeds or other legal instruments, and do any and all
839 other things required to effectively carry out the purpose and
840 intent of the Legislature. Any transaction which involves state

841 lands under the provisions of this paragraph shall be done in a
842 manner consistent with the provisions of Section 29-1-1;

843 (n) Collect and receive from educational institutions
844 of the State of Mississippi monies required to be paid by these
845 institutions to the state in carrying out any veterans'
846 educational programs;

847 (o) Purchase lands for building sites, or as additions
848 to building sites, for the erection of buildings and other
849 facilities which the department is authorized to erect, and
850 demolish and dispose of old buildings, when necessary for the
851 proper construction of new buildings. Any transaction which
852 involves state lands under the provisions of this paragraph shall
853 be done in a manner consistent with the provisions of Section
854 29-1-1; and

855 (p) Obtain business property insurance with a
856 deductible of not less than One Hundred Thousand Dollars
857 (\$100,000.00) on state-owned buildings under the management and
858 control of the department.

859 (3) The department shall survey state-owned and
860 state-utilized buildings to establish an estimate of the costs of
861 architectural alterations, pursuant to the Americans With
862 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
863 department shall establish priorities for making the identified
864 architectural alterations and shall make known to the Legislative
865 Budget Office and to the Legislature the required cost to
866 effectuate such alterations. To meet the requirements of this
867 section, the department shall use standards of accessibility that
868 are at least as stringent as any applicable federal requirements
869 and may consider:

870 (a) Federal minimum guidelines and requirements issued
871 by the United States Architectural and Transportation Barriers
872 Compliance Board and standards issued by other federal agencies;

873 (b) The criteria contained in the American Standard
874 Specifications for Making Buildings Accessible and Usable by the
875 Physically Handicapped and any amendments thereto as approved by
876 the American Standards Association, Incorporated (ANSI Standards);

877 (c) Design manuals;

878 (d) Applicable federal guidelines;

879 (e) Current literature in the field;

880 (f) Applicable safety standards; and

881 (g) Any applicable environmental impact statements.

882 (4) The department shall observe the provisions of Section
883 31-5-23, in letting contracts and shall use Mississippi products,
884 including paint, varnish and lacquer which contain as vehicles
885 tung oil and either ester gum or modified resin (with rosin as the
886 principal base of constituents), and turpentine shall be used as a
887 solvent or thinner, where these products are available at a cost
888 not to exceed the cost of products grown, produced, prepared, made
889 or manufactured outside of the State of Mississippi.

890 (5) The department shall have authority to accept grants,
891 loans or donations from the United States government or from any
892 other sources for the purpose of matching funds in carrying out
893 the provisions of this chapter.

894 (6) The department shall build a wheelchair ramp at the War
895 Memorial Building which complies with all applicable federal laws,
896 regulations and specifications regarding wheelchair ramps.

897 (7) The department shall review and preapprove all
898 architectural or engineering service contracts entered into by any
899 state agency, institution, commission, board or authority
900 regardless of the source of funding used to defray the costs of
901 the construction or renovation project for which services are to
902 be obtained. The provisions of this subsection (7) shall not
903 apply to any architectural or engineering contract paid for by
904 self-generated funds of any of the state institutions of higher
905 learning, nor shall they apply to community college projects that

906 are funded from local funds or other nonstate sources which are
907 outside the Department of Finance and Administration's
908 appropriations or as directed by the Legislature. The provisions
909 of this subsection (7) shall not apply to any construction or
910 design projects of the State Military Department that are funded
911 from federal funds or other nonstate sources.

912 (8) The department shall have the authority to obtain
913 annually from the state institutions of higher learning
914 information on all building, construction and renovation projects
915 including duties, responsibilities and costs of any architect or
916 engineer hired by any such institutions.

917 (9) (a) As an alternative to other methods of awarding
918 contracts as prescribed by law, the department may use the
919 design-build method or the design-build bridging method of
920 contracting for new capital construction projects to be used as a
921 pilot program for the following projects:

922 (i) Projects for the Mississippi Development
923 Authority pursuant to agreements between both governmental
924 entities;

925 (ii) Any project with an estimated cost of not
926 more than Ten Million Dollars (\$10,000,000.00), not to exceed two
927 (2) projects per fiscal year; and

928 (iii) Any project which has an estimated cost of
929 more than Fifty Million Dollars (\$50,000,000.00), not to exceed
930 one (1) project per fiscal year.

931 (b) As used in this subsection:

932 (i) "Design-build method of contracting" means a
933 contract that combines the design and construction phases of a
934 project into a single contract and the contractor is required to
935 satisfactorily perform, at a minimum, both the design and
936 construction of the project.

937 (ii) "Design-build bridging method of contracting"
938 means a contract that requires design through the design

939 development phase by a professional designer, after which a
940 request for qualifications for design completion and construction
941 is required for the completion of the project from a single
942 contractor that combines the balance of design and construction
943 phases of a project into a single contract. The contractor is
944 required to satisfactorily perform, at a minimum, both the balance
945 of design and construction of the project.

946 (c) The department shall establish detailed criteria
947 for the selection of the successful design-build/design-build
948 bridging contractor in each request for design-build/design-build
949 bridging proposals. The request for qualifications evaluation of
950 the selection committee is a public record and shall be maintained
951 for a minimum of three (3) years after project completion.

952 (d) The department shall maintain detailed records on
953 projects separate and apart from its regular record keeping. The
954 department shall file a report to the Legislature evaluating the
955 design-build/design-build bridging method of contracting by
956 comparing it to the low-bid method of contracting. At a minimum,
957 the report must include:

958 (i) The management goals and objectives for the
959 design-build/design-build bridging system of management;

960 (ii) A complete description of the components of
961 the design-build/design-build bridging management system,
962 including a description of the system the department put into
963 place on all projects managed under the system to insure that it
964 has the complete information on building segment costs and to
965 insure proper analysis of any proposal the department receives
966 from a contractor;

967 (iii) The accountability systems the department
968 established to monitor any design-build/design-build bridging
969 project's compliance with specific goals and objectives for the
970 project;

971 (iv) The outcome of any project or any interim
972 report on an ongoing project let under a design-build/design-build
973 bridging management system showing compliance with the goals,
974 objectives, policies and procedures the department set for the
975 project; and

976 (v) The method used by the department to select
977 projects to be let under the design-build/design-build bridging
978 system of management and all other systems, policies and
979 procedures that the department considered as necessary components
980 to a design-build/design-build bridging management system.

981 (e) All contracts let under the provisions of this
982 subsection shall be subject to oversight and review by the State
983 Auditor.

984 **SECTION 16.** Section 37-31-65, Mississippi Code of 1972, is
985 amended as follows:

986 37-31-65. The funds derived from any sources for any trade
987 school, such as the Mississippi School for the Deaf, Mississippi
988 School for the Blind, the Juvenile Justice Center at Hinds or
989 Parchman Vocational School or other agencies or institutions
990 receiving funds for the purposes of this chapter, which are not
991 operated in connection with any public school, agricultural high
992 school or community/junior college, or by virtue of any tuition,
993 registration fees, or payment for services rendered or commodities
994 produced, shall be the property of the State Board of Education.
995 In the event any public school, agricultural high school or
996 community/junior college establishes any trade school, classes or
997 courses under Section 37-31-61, such funds shall be the property
998 of such public school, agricultural high school or
999 community/junior college, to be expended by the trustees thereof,
1000 and shall be expended solely for the expense of operating and
1001 conducting the trade school, classes or courses in connection with
1002 such public school, agricultural high school or community/junior
1003 college. None of such funds shall be commingled with the funds of

1004 any other of such schools, and none of such funds shall be
1005 commingled with any of the other funds of any of the public
1006 schools, agricultural high schools or community/junior colleges.
1007 All of such funds so created shall be and are * * * declared to be
1008 public funds, as defined by law.

1009 **SECTION 17.** Section 37-113-21, Mississippi Code of 1972, is
1010 amended as follows:

1011 37-113-21. (1) Agriculture is the primary industry of
1012 Mississippi and it is to the interest of * * * state agriculture
1013 that research in the fields of livestock products, pastures and
1014 forage crops, poultry, herd and flock management, horticulture,
1015 farm mechanization, soil conservation, forestry, disease and
1016 insect and parasite control, the testing of plants and livestock
1017 under different conditions, farm enterprises for different sized
1018 farms under different soil and climatic conditions and market
1019 locations, and other important phases of Mississippi's
1020 agricultural economy, be expanded in the manner provided for in
1021 this section.

1022 (2) There is * * * authorized a branch experiment station to
1023 be known as the Brown Loam Branch Experiment Station, which is to
1024 be located on a part of that tract of land owned by the State of
1025 Mississippi and formerly operated as the Oakley Penitentiary and
1026 known as the Juvenile Justice Center at Hinds, same to be selected
1027 in accordance with Laws, 1954, Chapter 159, Section 3, and used as
1028 an agricultural experiment station. This property is to be
1029 supplied with necessary buildings, equipment, and other
1030 facilities; and title to such Oakley Penitentiary Farm, now known
1031 as the Juvenile Justice Center at Hinds, is to be transferred to
1032 the Board of Trustees of State Institutions of Higher Learning for
1033 the use of the Mississippi Agricultural and Forestry Experimental
1034 Station as the site of, and to be used for the Brown Loam Branch
1035 Experiment Station in accordance with Laws, 1954, Chapter 159,
1036 Section 3.

1037 There is * * * authorized a branch experiment station to be
1038 known as the Coastal Plain Branch Experiment Station to be located
1039 on a suitable tract of approximately nine hundred (900) acres to
1040 be purchased in the upper coastal plain or short leaf pine area of
1041 east central Mississippi and to be supplied with necessary
1042 buildings, equipment, and other facilities.

1043 The enlargement of the Holly Springs Branch Experiment
1044 Station, hereafter to be known as the North Mississippi Branch
1045 Experiment Station, is * * * authorized, by the purchase of
1046 approximately five hundred (500) acres of additional land adjacent
1047 to or in the vicinity of either of the two (2) farms now operated
1048 by the branch stations, and by the provision of the necessary
1049 buildings, equipment, and other facilities, and the sale, as
1050 hereinafter provided, of that farm of the branch station which is
1051 not adjacent to the additional land to be purchased.

1052 There is * * * authorized the reactivation of the former
1053 McNeil Branch Experiment Station to be operated as a part of the
1054 South Mississippi Branch Experiment Station at Poplarville, and to
1055 be supplied with necessary buildings, equipment, and other
1056 facilities.

1057 There is * * * authorized a branch experiment station to be
1058 known as the Black Belt Branch Experiment Station to be located on
1059 a suitable tract of approximately six hundred forty (640) acres of
1060 land to be purchased in Noxubee County, Mississippi, and to be
1061 supplied with the necessary buildings, equipment and other
1062 facilities.

1063 There is * * * authorized a branch experiment station to be
1064 known as the Northeast Mississippi Branch Experiment Station to be
1065 located on a suitable tract of approximately two hundred (200)
1066 acres of land to be purchased in Lee County, Mississippi. The
1067 station shall be primarily devoted to the development of the dairy
1068 industry and shall be supplied with necessary buildings,
1069 equipment, and other facilities.

1070 There is * * * authorized the expansion of the office and
1071 laboratory building at the Delta Branch Experiment Station at
1072 Stoneville and of the office and laboratory and dwellings for
1073 station workers at the Truck Crops Branch Experiment Station at
1074 Crystal Springs.

1075 (3) The governing authorities of any municipality, town or
1076 county in the state may, in their discretion, donate land, money
1077 or other property to the board of trustees of state institutions
1078 of higher learning in furtherance of the purposes of this section.

1079 For the purpose of securing funds to carry out this
1080 subsection, the governing authorities of such municipality, town
1081 or county are * * * authorized and empowered, in their discretion,
1082 to issue bonds or negotiate notes for the purpose of acquiring by
1083 purchase, gift, or lease real estate for the purpose herein
1084 authorized. Such issuance of bonds or notes shall be issued in an
1085 amount not to exceed the limitation now or hereafter imposed by
1086 law on counties, municipalities and towns, and shall be issued in
1087 all respects including interest rate, maturities and other details
1088 as is now or may hereafter be provided by general law regulating
1089 the issuance of bond or notes by the governing authorities of such
1090 municipality, town, or county.

1091 (4) Any person, firm or corporation may contribute or donate
1092 real or other property to the Board of Trustees of State
1093 Institutions of Higher Learning in furtherance of the purpose of
1094 this section.

1095 (5) The Board of Trustees of State Institutions of Higher
1096 Learning is * * * authorized, upon recommendation of the Director
1097 of the Agricultural and Forestry Experimental Station at the
1098 Mississippi State University of Agriculture and Applied Science,
1099 which recommendation is approved by and transmitted to the board
1100 by the president of the university, to carry out the provisions of
1101 this section with particular reference to the establishment,
1102 reactivation, expansion, and the discontinuance of branch stations

1103 as herein provided, to receive and accept title to any land or
1104 property or money herein authorized, to buy or sell and dispose of
1105 any real or personal property herein authorized, to make available
1106 for carrying into effect the provisions of this section all money
1107 received from such sale or sales, and to do any and all things
1108 necessary to effectuate the purposes of this section. One-half
1109 (1/2) interest in and to all oil, gas and other minerals shall be
1110 retained under any lands sold hereunder.

1111 (6) A gift of One Hundred Thousand Dollars (\$100,000.00),
1112 authorized by the general education board of the Rockefeller
1113 Foundation for the development of agricultural research, with
1114 particular reference to expanding the branch experiment stations
1115 and conditioned upon a general program of expansion substantially,
1116 as herein provided, is * * * accepted. The Director of the
1117 Agricultural and Forestry Experimental Station at the Mississippi
1118 State University of Agriculture and Applied Science is authorized
1119 and instructed to control and expend such fund in the same manner
1120 as other funds appropriated to carry out the provisions of this
1121 section.

1122 (7) The experiment station in Clay County, Mississippi,
1123 shall not be affected by this section.

1124 **SECTION 18.** Section 37-143-15, Mississippi Code of 1972, is
1125 amended as follows:

1126 37-143-15. The Board of Trustees of State Institutions of
1127 Higher Learning is authorized and empowered to establish loan or
1128 scholarship programs of like character, operation and purpose to
1129 the foregoing enumerated programs to encourage the participation
1130 of eligible worthy persons in courses of instruction in its
1131 institutions, and in furtherance of such power and authority is
1132 authorized: to adopt and implement rules and regulations
1133 declaring and describing the goals and objectives of such loan or
1134 scholarship programs; to establish the eligibility requirements
1135 for entry into such program and required for continuing

1136 participation for succeeding years; to determine the maximum
1137 amount to be made available to recipients; to delineate the terms
1138 and conditions of contracts with recipients and establish the
1139 service requirements for such contracts, if any; to enter into
1140 contracts pertaining to such programs with recipients; to enter
1141 into loan agreements and other contracts with financial
1142 institutions or other providers of loan monies for scholarship or
1143 loan participants; and to allocate and utilize such funds as may
1144 be necessary for the operation of such loan or scholarship
1145 programs from the annual appropriation for student financial aid.
1146 In issuing rules and regulations governing the administration of
1147 the Graduate Teacher Summer Scholarship (GTS) Program, the Board
1148 of Trustees of State Institutions of Higher Learning shall provide
1149 that certified teachers at the Juvenile Justice Centers at Hinds
1150 and Marion under the jurisdiction of the Department of Juvenile
1151 Justice shall be fully eligible to participate in the program.

1152 **SECTION 19.** Section 43-14-1, Mississippi Code of 1972, is
1153 amended as follows:

1154 43-14-1. (1) The purpose of this chapter is to provide for
1155 the development and implementation of a coordinated interagency
1156 system of necessary services and care for children and youth up to
1157 age twenty-one (21) with serious emotional/behavioral disorders
1158 including, but not limited to, conduct disorders, or mental
1159 illness who require services from a multiple services and multiple
1160 programs system, and who can be successfully diverted from
1161 inappropriate institutional placement. This program is to be done
1162 in the most fiscally responsible (cost efficient) manner possible,
1163 based on an individualized plan of care which takes into account
1164 other available interagency programs, including, but not limited
1165 to, Early Intervention Act of Infants and Toddlers, Section
1166 41-87-1 et seq., Early Periodic Screening Diagnosis and Treatment,
1167 Section 43-13-117(5), waived program for home- and
1168 community-based services for developmentally disabled people,

1169 Section 43-13-117(29), and waived program for targeted case
1170 management services for children with special needs, Section
1171 43-13-117(31), those children identified through the federal
1172 Individuals with Disabilities Education Act of 1997 as having a
1173 serious emotional disorder (EMD), the Mississippi Children's
1174 Health Insurance Program Phase I and Phase II and waived
1175 programs for children with serious emotional disturbances, Section
1176 43-13-117(46), and is tied to clinically appropriate outcomes.
1177 Some of the outcomes are to reduce the number of inappropriate
1178 out-of-home placements inclusive of those out-of-state and to
1179 reduce the number of inappropriate school suspensions and
1180 expulsions for this population of children. From and after July
1181 1, 2001, this coordinated interagency system of necessary services
1182 and care shall be named the System of Care program. Children to
1183 be served by this chapter who are eligible for Medicaid shall be
1184 screened through the Medicaid Early Periodic Screening Diagnosis
1185 and Treatment (EPSDT) and their needs for medically necessary
1186 services shall be certified through the EPSDT process. For
1187 purposes of this chapter, a "System of Care" is defined as a
1188 coordinated network of agencies and providers working as a team to
1189 make a full range of mental health and other necessary services
1190 available as needed by children with mental health problems and
1191 their families. The System of Care shall be:

1192 (a) Child centered, family focused and family driven;

1193 (b) Community based;

1194 (c) Culturally competent and responsive; and shall
1195 provide for:

1196 (i) Service coordination or case management;

1197 (ii) Prevention and early identification and
1198 intervention;

1199 (iii) Smooth transitions among agencies,
1200 providers, and to the adult service system;

1201 (iv) Human rights protection and advocacy;

1202 (v) Nondiscrimination in access to services;
1203 (vi) A comprehensive array of services;
1204 (vii) Individualized service planning;
1205 (viii) Services in the least restrictive
1206 environment;
1207 (ix) Family participation in all aspects of
1208 planning, service delivery and evaluation; and
1209 (x) Integrated services with coordinated planning
1210 across child-serving agencies.

1211 (2) There is established the Interagency Coordinating
1212 Council for Children and Youth (hereinafter referred to as the
1213 "ICCCY"). The ICCCY shall consist of the following membership:
1214 (a) the State Superintendent of Public Education; (b) the
1215 Executive Director of the Mississippi Department of Mental Health;
1216 (c) the Executive Director of the State Department of Health; (d)
1217 the Executive Director of the Department of Human Services; (e)
1218 the Executive Director of the Division of Medicaid, Office of the
1219 Governor; (f) the Executive Director of the State Department of
1220 Rehabilitation Services; and (g) the Executive Director of
1221 Mississippi Families as Allies for Children's Mental Health, Inc.
1222 The council shall meet before August 1, 2001, and shall organize
1223 for business by selecting a chairman, who shall serve for a
1224 one-year term and may not serve consecutive terms. The council
1225 shall adopt internal organizational procedures necessary for
1226 efficient operation of the council. Each member of the council
1227 shall designate necessary staff of their departments to assist the
1228 ICCCY in performing its duties and responsibilities. The ICCCY
1229 shall meet and conduct business at least twice annually. The
1230 chairman of the ICCCY shall notify all persons who request such
1231 notice as to the date, time and place of each meeting.

1232 (3) The Interagency System of Care Council is created to
1233 serve as the state management team for the ICCCY, with the
1234 responsibility of collecting and analyzing data and funding

1235 strategies necessary to improve the operation of the System of
1236 Care programs, and to make recommendations to the ICCCY and to the
1237 Legislature concerning such strategies on or before December 31,
1238 2002. The System of Care Council also has the responsibility of
1239 coordinating the local Multidisciplinary Assessment and Planning
1240 (MAP) teams and may apply for grants from public and private
1241 sources necessary to carry out its responsibilities. The
1242 Interagency System of Care Council shall be comprised of one (1)
1243 member from each of the appropriate child-serving divisions or
1244 sections of the State Department of Health, the Department of
1245 Human Services, the State Department of Mental Health, the State
1246 Department of Education, the Division of Medicaid of the
1247 Governor's Office, the Department of Rehabilitation Services, a
1248 family member representing a family education and support 501(c)3
1249 organization, a representative from the Council of Administrators
1250 for Special Education/Mississippi Organization of Special
1251 Education Supervisors (CASE/MOSES) and a family member designated
1252 by Mississippi Families as Allies for Children's Mental Health,
1253 Inc. Appointments to the Interagency System of Care Council shall
1254 be made within sixty (60) days after the effective date of this
1255 act. The council shall organize by selecting a chairman from its
1256 membership to serve on an annual basis, and the chairman may not
1257 serve consecutive terms.

1258 (4) (a) There is established a statewide system of local
1259 Multidisciplinary Assessment and Planning Resource (MAP) teams.
1260 The MAP teams shall be comprised of one (1) representative each at
1261 the county level from the major child-serving public agencies for
1262 education, human services, health, mental health and
1263 rehabilitative services approved by respective state agencies of
1264 the Department of Education, the Department of Human Services, the
1265 Department of Health, the Department of Mental Health and the
1266 Department of Rehabilitation Services. Three (3) additional
1267 members may be added to each team, one (1) of which may be a

1268 representative of a family education/support 501(c)3 organization
1269 with statewide recognition and specifically established for the
1270 population of children defined in Section 43-14-1. The remaining
1271 two (2) members will be representatives of significant
1272 community-level stakeholders with resources that can benefit the
1273 population of children defined in Section 43-14-1.

1274 (b) For each local existing MAP team that is
1275 established, pursuant to paragraph (a) of this subsection, there
1276 shall also be established an "A" (Adolescent) team, which shall
1277 work with a MAP team. The "A" teams shall provide System of Care
1278 services for nonviolent youthful offenders who have serious
1279 behavioral or emotional disorders. Each "A" team shall be
1280 comprised of the following five (5) members:

1281 (i) A school counselor;
1282 (ii) A community mental health professional;
1283 (iii) A social services/child welfare
1284 professional;
1285 (iv) A youth court counselor; and
1286 (v) A parent who had a child in the juvenile
1287 justice system.

1288 (5) The Interagency Coordinating Council for Children and
1289 Youth may provide input relative to how each agency utilizes its
1290 federal and state statutes, policy requirements and funding
1291 streams to identify and/or serve children and youth in the
1292 population defined in Section 43-14-1. The ICCCY shall support
1293 the implementation of the plans of the respective state agencies
1294 for comprehensive multidisciplinary care, treatment and placement
1295 of these children.

1296 (6) The ICCCY shall oversee a pool of state funds that may
1297 be contributed by each participating state agency and additional
1298 funds from the Mississippi Tobacco Health Care Expenditure Fund,
1299 subject to specific appropriation therefor by the Legislature.
1300 Part of this pool of funds shall be available for increasing the

1301 present funding levels by matching Medicaid funds in order to
1302 increase the existing resources available for necessary
1303 community-based services for Medicaid beneficiaries.

1304 (7) The local coordinating care MAP team will facilitate the
1305 development of the individualized System of Care programs for the
1306 population targeted in Section 43-14-1.

1307 (8) Each local MAP team shall serve as the single point of
1308 entry to ensure that comprehensive diagnosis and assessment occur
1309 and shall coordinate needed services through the local
1310 coordinating care entity for the children named in subsection (1).
1311 Local children in crisis shall have first priority for access to
1312 the MAP team processes and local System of Care programs.

1313 (9) The Interagency Coordinating Council for Children and
1314 Youth shall facilitate monitoring of the performance of local MAP
1315 teams.

1316 (10) Each state agency named in subsection (2) of this
1317 section shall enter into a binding interagency agreement to
1318 participate in the oversight of the statewide System of Care
1319 programs for the children and youth described in this section.
1320 The agreement shall be signed and in effect by July 1 of each
1321 year.

1322 (11) This section shall stand repealed from and after July
1323 1, 2005.

1324 **SECTION 20.** Section 43-14-5, Mississippi Code of 1972, is
1325 amended as follows:

1326 43-14-5. There is created in the State Treasury a special
1327 fund into which shall be deposited all funds contributed by the
1328 Department of Human Services, State Department of Health,
1329 Department of Mental Health, State Department of Rehabilitation
1330 Services insofar as recipients are otherwise eligible under the
1331 Rehabilitation Act of 1973, as amended, and State Department of
1332 Education for the operation of a statewide System of Care by MAP
1333 teams, and "A" teams utilizing such funds as may be made available

1334 to those MAP teams through a Request for Proposal (RFP) approved
1335 by the ICCCY.

1336 This section shall stand repealed from and after July 1,
1337 2005.

1338 **SECTION 21.** Section 43-21-105, Mississippi Code of 1972, is
1339 amended as follows:

1340 43-21-105. The following words and phrases, for purposes of
1341 this chapter, shall have the meanings ascribed herein unless the
1342 context clearly otherwise requires:

1343 (a) "Youth court" means the Youth Court Division.

1344 (b) "Judge" means the judge of the Youth Court
1345 Division.

1346 (c) "Designee" means any person that the judge appoints
1347 to perform a duty which this chapter requires to be done by the
1348 judge or his designee. The judge may not appoint a person who is
1349 involved in law enforcement to be his designee.

1350 (d) "Child" and "youth" are synonymous, and each means
1351 a person who has not reached his eighteenth birthday, except that
1352 the terms "child" or "youth" extends until the age of twenty (20)
1353 if the child or youth is under dual jurisdiction pursuant to
1354 Section 43-21-157 (10). A child who has not reached his
1355 eighteenth birthday and is on active duty for a branch of the
1356 armed services or is married is not considered a "child" or
1357 "youth" for the purposes of this chapter.

1358 (e) "Parent" means the father or mother to whom the
1359 child has been born, or the father or mother by whom the child has
1360 been legally adopted.

1361 (f) "Guardian" means a court-appointed guardian of the
1362 person of a child.

1363 (g) "Custodian" means any person having the present
1364 care or custody of a child whether such person be a parent or
1365 otherwise.

1366 (h) "Legal custodian" means a court-appointed custodian
1367 of the child.

1368 (i) "Delinquent child" means a child who has reached
1369 his tenth birthday and who has committed a delinquent act.

1370 (j) "Delinquent act" is any act, which if committed by
1371 an adult, is designated as a crime under state or federal law, or
1372 municipal or county ordinance other than offenses punishable by
1373 life imprisonment or death. A delinquent act includes escape from
1374 lawful detention and violations of the Uniform Controlled
1375 Substances Law and violent behavior.

1376 (k) "Child in need of supervision" means a child who
1377 has reached his seventh birthday and is in need of treatment or
1378 rehabilitation because the child:

1379 (i) Is habitually disobedient of reasonable and
1380 lawful commands of his parent, guardian or custodian and is
1381 ungovernable; or

1382 (ii) While being required to attend school,
1383 willfully and habitually violates the rules thereof or willfully
1384 and habitually absents himself therefrom; or

1385 (iii) Runs away from home without good cause; or

1386 (iv) Has committed a delinquent act or acts.

1387 (l) "Neglected child" means a child:

1388 (i) Whose parent, guardian or custodian or any
1389 person responsible for his care or support, neglects or refuses,
1390 when able so to do, to provide for him proper and necessary care
1391 or support, or education as required by law, or medical, surgical,
1392 or other care necessary for his well-being; provided, however, a
1393 parent who withholds medical treatment from any child who in good
1394 faith is under treatment by spiritual means alone through prayer
1395 in accordance with the tenets and practices of a recognized church
1396 or religious denomination by a duly accredited practitioner
1397 thereof shall not, for that reason alone, be considered to be
1398 neglectful under any provision of this chapter; or

1399 (ii) Who is otherwise without proper care,
1400 custody, supervision or support; or

1401 (iii) Who, for any reason, lacks the special care
1402 made necessary for him by reason of his mental condition, whether
1403 said mental condition be mentally retarded or mentally ill; or

1404 (iv) Who, for any reason, lacks the care necessary
1405 for his health, morals or well-being.

1406 (m) "Abused child" means a child whose parent, guardian
1407 or custodian or any person responsible for his care or support,
1408 whether legally obligated to do so or not, has caused or allowed
1409 to be caused upon said child sexual abuse, sexual exploitation,
1410 emotional abuse, mental injury, nonaccidental physical injury or
1411 other maltreatment. Provided, however, that physical discipline,
1412 including spanking, performed on a child by a parent, guardian or
1413 custodian in a reasonable manner shall not be deemed abuse under
1414 this section.

1415 (n) "Sexual abuse" means obscene or pornographic
1416 photographing, filming or depiction of children for commercial
1417 purposes, or the rape, molestation, incest, prostitution or other
1418 such forms of sexual exploitation of children under circumstances
1419 which indicate that the child's health or welfare is harmed or
1420 threatened.

1421 (o) "A child in need of special care" means a child
1422 with any mental or physical illness that cannot be treated with
1423 the dispositional alternatives ordinarily available to the youth
1424 court.

1425 (p) A "dependent child" means any child who is not a
1426 child in need of supervision, a delinquent child, an abused child
1427 or a neglected child, and which child has been voluntarily placed
1428 in the custody of the Department of Human Services by his parent,
1429 guardian or custodian.

1430 (q) "Custody" means the physical possession of the
1431 child by any person.

1432 (r) "Legal custody" means the legal status created by a
1433 court order which gives the legal custodian the responsibilities
1434 of physical possession of the child and the duty to provide him
1435 with food, shelter, education and reasonable medical care, all
1436 subject to residual rights and responsibilities of the parent or
1437 guardian of the person.

1438 (s) "Detention" means the care of children in
1439 physically restrictive facilities.

1440 (t) "Shelter" means care of children in physically
1441 nonrestrictive facilities.

1442 (u) "Records involving children" means any of the
1443 following from which the child can be identified:

1444 (i) All youth court records as defined in Section
1445 43-21-251;

1446 (ii) All social records as defined in Section
1447 43-21-253;

1448 (iii) All law enforcement records as defined in
1449 Section 43-21-255;

1450 (iv) All agency records as defined in Section
1451 43-21-257; and

1452 (v) All other documents maintained by any
1453 representative of the state, county, municipality or other public
1454 agency insofar as they relate to the apprehension, custody,
1455 adjudication or disposition of a child who is the subject of a
1456 youth court cause.

1457 (v) "Any person responsible for care or support" means
1458 the person who is providing for the child at a given time. This
1459 term shall include, but is not limited to, stepparents, foster
1460 parents, relatives, nonlicensed babysitters or other similar
1461 persons responsible for a child and staff of residential care
1462 facilities and group homes that are licensed by the Department of
1463 Human Services.

1464 (w) The singular includes the plural, the plural the
1465 singular and the masculine the feminine when consistent with the
1466 intent of this chapter.

1467 (x) "Out-of-home" setting means the temporary
1468 supervision or care of children by the staff of licensed day care
1469 centers, the staff of public, private and state schools, the staff
1470 of juvenile detention facilities, the staff of unlicensed
1471 residential care facilities and group homes and the staff of, or
1472 individuals representing, churches, civic or social organizations.

1473 (y) "Durable legal custody" means the legal status
1474 created by a court order which gives the durable legal custodian
1475 the responsibilities of physical possession of the child and the
1476 duty to provide him with care, nurture, welfare, food, shelter,
1477 education and reasonable medical care. All these duties as
1478 enumerated are subject to the residual rights and responsibilities
1479 of the natural parent(s) or guardian(s) of the child or children.

1480 **SECTION 22.** Section 43-21-109, Mississippi Code of 1972, is
1481 amended as follows:

1482 43-21-109. Any county or municipality may separately or
1483 jointly establish and maintain detention facilities, shelter
1484 facilities, foster homes, or any other facility necessary to carry
1485 on the work of the youth court; however, all youth detention
1486 facilities shall be operated and administered by a youth court
1487 judge. For said purposes, the county or municipality may acquire
1488 necessary land by condemnation, by purchase or donation, may issue
1489 bonds as now provided by law for the purpose of purchasing,
1490 constructing, remodeling or maintaining such facilities; may
1491 expend necessary funds from the general fund to construct and
1492 maintain such facilities, and may employ architects to design or
1493 remodel such facilities. Such facilities may include a place for
1494 housing youth court facilities and personnel.

1495 **SECTION 23.** Section 43-21-151, Mississippi Code of 1972, is
1496 amended as follows:

1497 43-21-151. (1) The youth court shall have exclusive
1498 original jurisdiction in all proceedings concerning a delinquent
1499 child, a child in need of supervision, a neglected child, an
1500 abused child or a dependent child except in the following
1501 circumstances:

1502 (a) Any act attempted or committed by a child, which if
1503 committed by an adult would be punishable under state or federal
1504 law by life imprisonment or death, will be in the original
1505 jurisdiction of the circuit court;

1506 (b) Any act attempted or committed by a child with the
1507 use of a deadly weapon, the carrying of which concealed is
1508 prohibited by Section 97-37-1, or a shotgun or a rifle, which
1509 would be a felony if committed by an adult, will be in the
1510 original jurisdiction of the circuit court; and

1511 (c) When a charge of abuse of a child first arises in
1512 the course of a custody action between the parents of the child
1513 already pending in the chancery court and no notice of such abuse
1514 was provided prior to such chancery proceedings, the chancery
1515 court may proceed with the investigation, hearing and
1516 determination of such abuse charge as a part of its hearing and
1517 determination of the custody issue as between the parents,
1518 notwithstanding the other provisions of the Youth Court Law. The
1519 proceedings in chancery court on the abuse charge shall be
1520 confidential in the same manner as provided in youth court
1521 proceedings.

1522 When a child is expelled from the public schools, the youth
1523 court shall be notified of the act of expulsion and the act or
1524 acts constituting the basis for expulsion.

1525 (2) Jurisdiction of the child in the cause shall attach at
1526 the time of the offense and shall continue thereafter for that
1527 offense until the child's twentieth birthday, unless sooner
1528 terminated by order of the youth court. Except when a child is
1529 under dual jurisdiction proceedings, as authorized under Section

1530 43-21-157 (10), the youth court shall not have jurisdiction over
1531 offenses committed by a child on or after his eighteenth birthday,
1532 or over offenses committed by a child on or after his seventeenth
1533 birthday where such offenses would be a felony if committed by an
1534 adult.

1535 (3) No child who has not reached his thirteenth birthday
1536 shall be held criminally responsible or criminally prosecuted for
1537 a misdemeanor or felony; however, the parent, guardian or
1538 custodian of such child may be civilly liable for any criminal
1539 acts of such child. No child under the jurisdiction of the youth
1540 court shall be held criminally responsible or criminally
1541 prosecuted by any court for any act designated as a delinquent
1542 act, unless jurisdiction is transferred to another court under
1543 Section 43-21-157.

1544 (4) The youth court shall also have jurisdiction of offenses
1545 committed by a child which have been transferred to the youth
1546 court by an order of a circuit court of this state having original
1547 jurisdiction of the offense, as provided by Section 43-21-159.

1548 (5) The youth court shall regulate and approve the use of
1549 teen court as provided in Section 43-21-753.

1550 **SECTION 24.** Section 43-21-157, Mississippi Code of 1972, is
1551 amended as follows:

1552 43-21-157. (1) If a child who has reached his thirteenth
1553 birthday is charged by petition to be a delinquent child, the
1554 youth court, either on motion of the youth court prosecutor or on
1555 the youth court's own motion, after a hearing as hereinafter
1556 provided, may, in its discretion, transfer jurisdiction of the
1557 alleged offense described in the petition or a lesser included
1558 offense to the criminal court which would have trial jurisdiction
1559 of such offense if committed by an adult. The child shall be
1560 represented by counsel in transfer proceedings.

1561 (2) A motion to transfer shall be filed on a day prior to
1562 the date set for the adjudicatory hearing but not more than ten

1563 (10) days after the filing of the petition. The youth court may
1564 order a transfer study at any time after the motion to transfer is
1565 filed. The transfer study and any other social record which the
1566 youth court will consider at the transfer hearing shall be made
1567 available to the child's counsel prior to the hearing. Summons
1568 shall be served in the same manner as other summons under this
1569 chapter with a copy of the motion to transfer and the petition
1570 attached thereto.

1571 (3) The transfer hearing shall be bifurcated. At the
1572 transfer hearing, the youth court shall first determine whether
1573 probable cause exists to believe that the child committed the
1574 alleged offense. For the purpose of the transfer hearing only,
1575 the child may, with the assistance of counsel, waive the
1576 determination of probable cause.

1577 (4) Upon such a finding of probable cause, the youth court
1578 may transfer jurisdiction of the alleged offense and the youth if
1579 the youth court finds by clear and convincing evidence that there
1580 are no reasonable prospects of rehabilitation within the juvenile
1581 justice system.

1582 (5) The factors which shall be considered by the youth court
1583 in determining the reasonable prospects of rehabilitation within
1584 the juvenile justice system are:

1585 (a) Whether or not the alleged offense constituted a
1586 substantial danger to the public;

1587 (b) The seriousness of the alleged offense;

1588 (c) Whether or not the transfer is required to protect
1589 the community;

1590 (d) Whether or not the alleged offense was committed in
1591 an aggressive, violent, premeditated or willful manner;

1592 (e) Whether the alleged offense was against persons or
1593 against property, greater weight being given to the offense
1594 against persons, especially if personal injury resulted;

1595 (f) The sophistication, maturity and educational
1596 background of the child;

1597 (g) The child's home situation, emotional condition and
1598 life-style;

1599 (h) The history of the child, including experience with
1600 the juvenile justice system, other courts, probation, commitments
1601 to juvenile institutions or other placements;

1602 (i) Whether or not the child can be retained in the
1603 juvenile justice system long enough for effective treatment or
1604 rehabilitation;

1605 (j) The dispositional resources available to the
1606 juvenile justice system;

1607 (k) Dispositional resources available to the adult
1608 correctional system for the child if treated as an adult;

1609 (l) Whether the alleged offense was committed on school
1610 property, public or private, or at any school-sponsored event, and
1611 constituted a substantial danger to other students;

1612 (m) Any other factors deemed relevant by the youth
1613 court; and

1614 (n) Nothing in this subsection shall prohibit the
1615 transfer of jurisdiction of an alleged offense and a child if that
1616 child, at the time of the transfer hearing, previously has not
1617 been placed in a juvenile institution.

1618 (6) If the youth court transfers jurisdiction of the alleged
1619 offense to a criminal court, the youth court shall enter a
1620 transfer order containing:

1621 (a) Facts showing that the youth court had jurisdiction
1622 of the cause and of the parties;

1623 (b) Facts showing that the child was represented by
1624 counsel;

1625 (c) Facts showing that the hearing was held in the
1626 presence of the child and his counsel;

1627 (d) A recital of the findings of probable cause and the
1628 facts and reasons underlying the youth court's decision to
1629 transfer jurisdiction of the alleged offense;

1630 (e) The conditions of custody or release of the child
1631 pending criminal court proceedings, including bail or recognizance
1632 as the case may justify, as well as a designation of the custodian
1633 for the time being; and

1634 (f) A designation of the alleged offense transferred
1635 and of the court to which the transfer is made and a direction to
1636 the clerk to forward for filing in such court a certified copy of
1637 the transfer order of the youth court.

1638 (7) The testimony of the child respondent at a transfer
1639 hearing conducted pursuant to this chapter shall not be admissible
1640 against the child in any proceeding other than the transfer
1641 hearing.

1642 (8) When jurisdiction of an offense is transferred to the
1643 circuit court, or when a youth has committed an act which is in
1644 original circuit court jurisdiction pursuant to Section 43-21-151,
1645 the jurisdiction of the youth court over the youth is forever
1646 terminated, except that such jurisdiction is not forever
1647 terminated if the circuit court transfers or remands the
1648 transferred case to the youth court or if a child who has been
1649 transferred to the circuit court or is in the original
1650 jurisdiction of the circuit court is not convicted, and except
1651 that the circuit court, in its discretion, utilizes dual
1652 jurisdiction proceedings for certain first-time offenders as
1653 authorized in subsection (10) of this section. However, when
1654 jurisdiction of an offense is transferred to the circuit court
1655 pursuant to this section or when an offense committed by a youth
1656 is in original circuit court jurisdiction pursuant to Section
1657 43-21-151, the circuit court shall thereafter assume and retain
1658 jurisdiction of any felony offenses committed by such youth
1659 without any additional transfer proceedings, except when the

1660 circuit court utilizes dual jurisdiction proceedings for certain
1661 first-time offenders as authorized in subsection (10) of this
1662 section. Any misdemeanor offenses committed by youth who are in
1663 circuit court jurisdiction pursuant to this section or Section
1664 43-21-151 shall be prosecuted in the court which would have
1665 jurisdiction over that offense if committed by an adult without
1666 any additional transfer proceedings. The circuit court may review
1667 the transfer proceedings on motion of the transferred child. Such
1668 review shall be on the record of the hearing in the youth court.
1669 The circuit court shall remand the offense to the youth court if
1670 there is no substantial evidence to support the order of the youth
1671 court. The circuit court may also review the conditions of
1672 custody or release pending criminal court proceedings.

1673 (9) When any youth has been the subject of a transfer to
1674 circuit court for an offense committed in any county of the state
1675 or has committed any act which is in the original jurisdiction of
1676 the circuit court pursuant to Section 43-21-151, that transfer or
1677 original jurisdiction shall be recognized by all other courts of
1678 the state and no subsequent offense committed by such youth in any
1679 county of the state shall be in the jurisdiction of the youth
1680 court unless transferred to the youth court pursuant to Section
1681 43-21-159(3). Transfers from youth courts of other states shall
1682 be recognized by the courts of this state and no youth who has a
1683 pending charge or a conviction in the adult court system of any
1684 other state shall be in the jurisdiction of the youth courts of
1685 this state, but such youths shall be in the jurisdiction of the
1686 circuit court for any felony committed in this state or in the
1687 jurisdiction of the court of competent jurisdiction for any
1688 misdemeanor committed in this state.

1689 (10) (a) The circuit court may, in cases which met the
1690 criteria of paragraphs (a) through (c) of this subsection (10) and
1691 where the offender has been transferred to a court of general
1692 jurisdiction pursuant to subsection (8) of this section and whose

1693 prosecution results in a conviction or a plea of guilty, may
1694 invoke dual jurisdiction of both the criminal and juvenile codes,
1695 as set forth in this subsection. The circuit court is authorized
1696 to impose a juvenile disposition and simultaneously impose an
1697 adult criminal sentence, the execution of which shall be suspended
1698 pursuant to the provisions of this subsection. Successful
1699 completion of the juvenile disposition ordered shall be a
1700 condition of the suspended adult criminal sentence. The circuit
1701 court may order an offender into the custody of the Department of
1702 Juvenile Justice if:

1703 (i) The offender is between the ages of seventeen
1704 (17) and twenty (20) years of age;

1705 (ii) The offender is a first-time offender who has
1706 committed a nonviolent offense;

1707 (iii) The offender committed the offense while
1708 enrolled in a legitimate home instruction program, a public or
1709 private school of the state and/or is two (2) grade levels behind;

1710 (iv) A facility is designed and built by the
1711 Department of Juvenile Justice specifically for offenders pursuant
1712 to this section and if the division determines that there is space
1713 available, based on design capacity in the facility; and

1714 (v) The department agrees to accept such
1715 commitments.

1716 (b) If there is probable cause to believe that the
1717 offender has violated a condition of the suspended sentence or
1718 committed a new offense, the circuit court shall conduct a hearing
1719 on the violation charged, unless the offender waives such hearing.
1720 If the violation is established and found the court may continue
1721 or revoke the juvenile disposition, impose the adult criminal
1722 sentence or enter such other order as it may see fit.

1723 (c) When an offender has received a suspended sentence
1724 pursuant to this subsection (10) and the Department of Juvenile
1725 Justice determines the child is beyond the scope of its treatment

1726 programs, the department may petition the court for a transfer of
1727 custody of the offender. The court shall hold a hearing:

1728 (i) To revoke the suspension and direct that the
1729 offender be taken into immediate custody of the Department of
1730 Corrections; and

1731 (ii) To direct that the offender be placed on
1732 probation.

1733 (d) When an offender has received a suspended sentence
1734 and has reached the age of twenty (20), the court shall hold a
1735 hearing for the purposes of:

1736 (i) To revoke the suspension and direct that the
1737 offender be taken into immediate custody of the Department of
1738 Corrections;

1739 (ii) To direct that the offender be placed on
1740 probation; or

1741 (iii) To direct that the offender remain in the
1742 custody of the department until the age of twenty-one (21) if the
1743 department agrees to such placement.

1744 (e) The Department of Juvenile Justice shall petition
1745 the circuit court for a hearing before it releases an offender who
1746 comes within subsection (10) of this section at any time before
1747 the offender reaches the age of twenty-one (21). The circuit
1748 court shall:

1749 (i) Revoke the suspension and direct that the
1750 offender be taken into immediate custody of the Department of
1751 Corrections; or

1752 (ii) Direct that the offender be placed on
1753 probation.

1754 (f) If the suspension of the adult criminal sentence is
1755 revoked, all time served by the offender under the juvenile
1756 disposition shall be credited toward the adult criminal sentence
1757 imposed.

1758 (g) If the offender completes his or her sentence under
1759 the juvenile disposition then the record of the offender shall be
1760 expunged pursuant to Section 43-21-159.

1761 * * *

1762 **SECTION 25.** Section 43-21-159, Mississippi Code of 1972, is
1763 amended as follows:

1764 43-21-159. (1) When a person appears before a court other
1765 than the youth court, and it is determined that the person is a
1766 child under jurisdiction of the youth court, such court shall,
1767 unless the jurisdiction of the offense has been transferred to
1768 such court as provided in this chapter, or unless the child has
1769 previously been the subject of a transfer from the youth court to
1770 the circuit court for trial as an adult and was convicted, or the
1771 child is under dual jurisdiction proceedings as authorized under
1772 Section 43-21-157 (10), immediately dismiss the proceeding without
1773 prejudice and forward all documents pertaining to the cause to the
1774 youth court; and all entries in permanent records shall be
1775 expunged. The youth court shall have the power to order and
1776 supervise the expunction or the destruction of such records in
1777 accordance with Section 43-21-265. Upon petition therefor, the
1778 youth court shall expunge the record of any case within its
1779 jurisdiction in which an arrest was made, the person arrested was
1780 released and the case was dismissed or the charges were dropped or
1781 there was no disposition of such case. In cases where the child
1782 is charged with a hunting or fishing violation or a traffic
1783 violation whether it be any state or federal law, a violation of
1784 the Mississippi Implied Consent Law, or municipal ordinance or
1785 county resolution or where the child is charged with a violation
1786 of Section 67-3-70, the appropriate criminal court shall proceed
1787 to dispose of the same in the same manner as for other adult
1788 offenders and it shall not be necessary to transfer the case to
1789 the youth court of the county. Unless the cause has been
1790 transferred, or unless the child has previously been the subject

1791 of a transfer from the youth court to the circuit court for trial
1792 as an adult, except for violations under the Implied Consent Law,
1793 and was convicted, the youth court shall have power on its own
1794 motion to remove jurisdiction from any criminal court of any
1795 offense including a hunting or fishing violation, a traffic
1796 violation, or a violation of Section 67-3-70, committed by a child
1797 in a matter under the jurisdiction of the youth court and proceed
1798 therewith in accordance with the provisions of this chapter.

1799 (2) After conviction and sentence of any child by any other
1800 court having original jurisdiction on a misdemeanor charge, and
1801 within the time allowed for an appeal of such conviction and
1802 sentence, the youth court of the county shall have the full power
1803 to stay the execution of the sentence and to release the child on
1804 good behavior or on other order as the youth court may see fit to
1805 make unless the child has previously been the subject of a
1806 transfer from the youth court to the circuit court for trial as an
1807 adult and was convicted. When a child is convicted of a
1808 misdemeanor and is committed to, incarcerated in or imprisoned in
1809 a jail or other place of detention by a criminal court having
1810 proper jurisdiction of such charge, such court shall notify the
1811 youth court judge or the judge's designee of the conviction and
1812 sentence prior to the commencement of such incarceration. The
1813 youth court shall have the power to order and supervise the
1814 destruction of any records involving children maintained by the
1815 criminal court in accordance with Section 43-21-265. However, the
1816 youth court shall have the power to set aside a judgment of any
1817 other court rendered in any matter over which the youth court has
1818 exclusive original jurisdiction, to expunge or destroy the records
1819 thereof in accordance with Section 43-21-265, and to order a
1820 refund of fines and costs.

1821 (3) Nothing in subsection (1) or (2) shall apply to a youth
1822 who has a pending charge or a conviction for any crime over which
1823 circuit court has original jurisdiction, unless the circuit court,

1824 in its discretion, utilizes dual jurisdiction proceedings as
1825 authorized in Section 43-21-157 (10).

1826 (4) In any case wherein the defendant is a child as defined
1827 in this chapter and of which the circuit court has original
1828 jurisdiction, the circuit judge, upon a finding that it would be
1829 in the best interest of such child and in the interest of justice,
1830 may at any stage of the proceedings prior to the attachment of
1831 jeopardy transfer such proceedings to the youth court for further
1832 proceedings unless the child has previously been the subject of a
1833 transfer from the youth court to the circuit court for trial as an
1834 adult and was convicted or has previously been convicted of a
1835 crime which was in original circuit court jurisdiction, and the
1836 youth court shall, upon acquiring jurisdiction, proceed as
1837 provided in this chapter for the adjudication and disposition of
1838 delinquent child proceeding proceedings. If the case is not
1839 transferred to the youth court and the youth is convicted of a
1840 crime by any circuit court, the trial judge shall sentence the
1841 youth as though such youth was an adult. The circuit court shall
1842 not have the authority to commit such child to the custody of the
1843 Department of Juvenile Justice for placement in a state-supported
1844 juvenile justice center.

1845 (5) In no event shall a court sentence an offender over the
1846 age of eighteen (18) to the custody of the Department of Juvenile
1847 Justice for placement in a state-supported juvenile justice
1848 center, unless the offender is under dual jurisdiction proceedings
1849 as authorized under Section 43-21-157 (10).

1850 (6) When a child's driver's license is suspended by the
1851 youth court for any reason, the clerk of the youth court shall
1852 report the suspension, without a court order under Section
1853 43-21-261, to the Commissioner of Public Safety in the same manner
1854 as such suspensions are reported in cases involving adults.

1855 (7) No offense involving the use or possession of a firearm
1856 by a child who has reached his fifteenth birthday and which, if

1857 committed by an adult would be a felony, shall be transferred to
1858 the youth court.

1859 **SECTION 26.** Section 43-21-315, Mississippi Code of 1972, is
1860 amended as follows:

1861 43-21-315. (1) The youth court shall, by general order or
1862 rule of court, designate the available detention or shelter
1863 facilities to which children shall be delivered when taken into
1864 custody; however, when a child is delivered to a detention
1865 facility the facility shall be administered and operated by a
1866 youth court judge as prescribed in Section 43-21-109. Copies of
1867 the order or rule shall be made available to the Department of
1868 Human Services and all law enforcement agencies within the
1869 territorial jurisdiction of the youth court.

1870 (2) Except as otherwise provided in this chapter, unless
1871 jurisdiction is transferred, no child shall be placed in any jail
1872 or place of detention of adults by any person or court unless the
1873 child shall be physically segregated from other persons not
1874 subject to the jurisdiction of the youth court and the physical
1875 arrangement of such jail or place of detention of adults prevents
1876 such child from having substantial contact with and substantial
1877 view of such other persons; but in any event, the child shall not
1878 be confined anywhere in the same cell with persons not subject to
1879 the jurisdiction of the youth court. Any order placing a child
1880 into custody shall comply with the detention requirements provided
1881 in Section 43-21-301(6). This subsection shall not be construed
1882 to apply to commitments to the training school under Section
1883 43-21-605(1)(g)(iii).

1884 (3) Any child who is charged with a hunting or fishing
1885 violation, a traffic violation, or any other criminal offense for
1886 which the youth court shall have power on its own motion to remove
1887 jurisdiction from any criminal court, may be detained only in the
1888 same facilities designated by the youth court for children within
1889 the jurisdiction of the youth court.

1890 (4) After a child is ordered into custody, the youth court
1891 may arrange for the custody of the child with any private
1892 institution or agency caring for children, may commit the child to
1893 the Department of Mental Health pursuant to Section 41-21-61 et
1894 seq., or may order the Department of Human Services or any other
1895 public agency to provide for the custody, care and maintenance of
1896 such child. Provided, however, that the care, custody and
1897 maintenance of such child shall be within the statutory
1898 authorization and the budgetary means of such institution or
1899 facility.

1900 **SECTION 27.** Section 43-21-321, Mississippi Code of 1972, is
1901 amended as follows:

1902 43-21-321. (1) All juveniles shall undergo a health
1903 screening within one (1) hour of admission to any juvenile
1904 detention center, or as soon thereafter as reasonably possible.
1905 Information obtained during the screening shall include, but shall
1906 not be limited to, the juvenile's:

- 1907 (a) Mental health;
- 1908 (b) Suicide risk;
- 1909 (c) Alcohol and other drug use and abuse;
- 1910 (d) Physical health;
- 1911 (e) Aggressive behavior;
- 1912 (f) Family relations;
- 1913 (g) Peer relations;
- 1914 (h) Social skills;
- 1915 (i) Educational status; and
- 1916 (j) Vocational status.

1917 (2) If the screening instrument indicates that a juvenile is
1918 in need of emergency medical care or mental health intervention
1919 services, the detention staff shall refer those juveniles to the
1920 proper health care facility or mental health service provider for
1921 further evaluation, as soon as reasonably possible. If a juvenile
1922 has been screened by an instrument, such as the Massachusetts

1923 Youth Screening Instrument version 2 (MAYSI-2) or other comparable
1924 mental health screening instruments, and it is determined that the
1925 child needs further assessment by an appropriate mental health
1926 professional, the child shall be deferred within forty-eight (48)
1927 hours, excluding Saturdays, Sundays and statutory state holidays
1928 to a comprehensive community-based program.

1929 (3) All juveniles shall receive a thorough orientation to
1930 the center's procedures, rules, programs and services. The intake
1931 process shall operate twenty-four (24) hours per day.

1932 (4) The directors of all of the juvenile detention centers
1933 shall amend or develop written procedures for admission of
1934 juveniles who are new to the system. These shall include, but are
1935 not limited to, the following:

1936 (a) Determine that the juvenile is legally committed to
1937 the facility;

1938 (b) Make a complete search of the juvenile and his
1939 possessions;

1940 (c) Dispose of personal property;

1941 (d) Require shower and hair care, if necessary;

1942 (e) Issue clean, laundered clothing, as needed;

1943 (f) Issue personal hygiene articles;

1944 (g) Perform medical, dental and mental health
1945 screening;

1946 (h) Assign a housing unit for the juvenile;

1947 (i) Record basic personal data and information to be
1948 used for mail and visiting lists;

1949 (j) Assist juveniles in notifying their families of
1950 their admission and procedures for mail and visiting;

1951 (k) Assign a registered number to the juvenile; and

1952 (l) Provide written orientation materials to the
1953 juvenile.

1954 (5) All juvenile detention centers shall provide or make
1955 available the following minimum services and programs:

- 1956 (a) An educational program;
1957 (b) A visitation program with parents and guardians;
1958 (c) Private communications with visitors and staff;
1959 (d) Counseling;
1960 (e) Continuous supervision of living units;
1961 (f) Medical service;
1962 (g) Food service;
1963 (h) Recreation and exercise program; and
1964 (i) Reading materials.

1965 (6) Programs and services shall be initiated for all
1966 juveniles once they have completed the admissions process.

1967 (7) Programs and professional services may be provided by
1968 the detention staff, youth court staff or the staff of the local
1969 or state agencies, or those programs and professional services may
1970 be provided through contractual arrangements with community
1971 agencies.

1972 (8) Persons providing the services required in this section
1973 must be qualified or trained in their respective fields.

1974 (9) All directors of juvenile detention centers shall amend
1975 or develop written procedures to fit the programs and services
1976 described in this section.

1977 **SECTION 28.** Section 43-21-605, Mississippi Code of 1972, is
1978 amended as follows:

1979 43-21-605. (1) In delinquency cases, the disposition order
1980 may include any of the following alternatives:

1981 (a) Release the child without further action;

1982 (b) Place the child in the custody of the parents, a
1983 relative or other persons subject to any conditions and
1984 limitations, including restitution, as the youth court may
1985 prescribe;

1986 (c) Place the child on probation subject to any
1987 reasonable and appropriate conditions and limitations, including
1988 restitution, as the youth court may prescribe;

1989 (d) Order terms of treatment calculated to assist the
1990 child and the child's parents or guardian which are within the
1991 ability of the parent or guardian to perform;

1992 (e) Order terms of supervision which may include
1993 participation in a constructive program of service or education or
1994 civil fines not in excess of Five Hundred Dollars (\$500.00), or
1995 restitution not in excess of actual damages caused by the child to
1996 be paid out of his own assets or by performance of services
1997 acceptable to the victims and approved by the youth court and
1998 reasonably capable of performance within one (1) year;

1999 (f) Suspend the child's driver's license by taking and
2000 keeping it in custody of the court for not more than one (1) year;

2001 (g) Give legal custody of the child to any of the
2002 following:

2003 (i) The Department of Human Services for
2004 appropriate placement; or

2005 (ii) Any public or private organization,
2006 preferably community-based, able to assume the education, care and
2007 maintenance of the child, which has been found suitable by the
2008 court; or

2009 (iii) The Department of Human Services for
2010 placement in a wilderness training program or the Department of
2011 Juvenile Justice for placement in a state-supported juvenile
2012 justice center, except that no child under the age of ten (10)
2013 years shall be committed to a juvenile justice center, and except
2014 that no first-time nonviolent youth offenders shall be committed
2015 to a juvenile justice center until all other options provided for
2016 in this subparagraph have been utilized. The juvenile justice
2017 center may retain custody of the child until the child's twentieth
2018 birthday but for no longer unless the child is under dual
2019 jurisdiction proceedings as authorized under Section
2020 43-21-157(10). When the child is committed to a juvenile justice
2021 center, the child shall remain in the legal custody of the center

2022 for a minimum of five and one-half (5-1/2) months or one (1) full
2023 public school semester. However, the superintendent of a juvenile
2024 justice center may parole a child at any time he may deem it in
2025 the best interest and welfare of such child, after the child has
2026 been in the custody of a juvenile justice center for a minimum of
2027 five and one-half (5-1/2) months or one (1) full public school
2028 semester. If a child is committed to a juvenile justice center
2029 during a summer break of a public school year, then the child
2030 shall not be released until the beginning of the winter term.
2031 Twenty (20) days prior to such parole, the juvenile justice center
2032 shall notify the committing court of the pending release. The
2033 youth court may then arrange subsequent placement after a
2034 reconvened disposition hearing, except that the youth court may
2035 not recommit the child to the juvenile justice center or any other
2036 secure facility without an adjudication of a new offense or
2037 probation or parole violation, except that youth on probation,
2038 parole or other status and who are under the jurisdiction of the
2039 Department of Juvenile Justice, and who are exiting a juvenile
2040 justice center may be referred to the Mississippi Transition
2041 Program created under Section 11 of this act. Prior to assigning
2042 the custody of any child to any private institution or agency, the
2043 youth court through its designee shall first inspect the physical
2044 facilities to determine that they provide a reasonable standard of
2045 health and safety for the child. The youth court shall not place
2046 a child in the custody of a juvenile justice center for the
2047 following: curfew violation, malicious mischief, incorrigibility,
2048 running away, contempt of court for any underlying status offense,
2049 possession of marijuana without intent to distribute, alcohol
2050 related offenses, truancy or any other nonviolent offenses;

2051 (h) Recommend to the child and the child's parents or
2052 guardian that the child attend and participate in the Youth
2053 Challenge Program under the Mississippi National Guard, as created
2054 in Section 43-27-203, subject to the selection of the child for

2055 the program by the National Guard; however, the child must
2056 volunteer to participate in the program. The youth court shall
2057 not order any child to apply or attend the program;

2058 (i) Recommend to the child and the child's parents or
2059 guardian that the child attend and participate in the Mississippi
2060 Challenge Program, as created in Section 10 of this act; however,
2061 the child, with the permission of a parent or guardian, must
2062 volunteer to participate in the program. The youth court shall
2063 not order any child to apply or attend the program;

2064 (j) (i) Adjudicate the juvenile to the Statewide
2065 Juvenile Work Program if the program is established in the court's
2066 jurisdiction. The juvenile and his parents or guardians must sign
2067 a waiver of liability in order to participate in the work program.
2068 The judge will coordinate with the youth services counselors as to
2069 placing participants in the work program;

2070 (ii) The severity of the crime, whether or not the
2071 juvenile is a repeat offender or is a felony offender will be
2072 taken into consideration by the judge when adjudicating a juvenile
2073 to the work program. The juveniles adjudicated to the work
2074 program will be supervised by police officers or reserve officers.
2075 The term of service will be from twenty-four (24) to one hundred
2076 twenty (120) hours of community service. A juvenile will work the
2077 hours to which he was adjudicated on the weekends during school
2078 and weekdays during the summer. Parents are responsible for a
2079 juvenile reporting for work. Noncompliance with an order to
2080 perform community service will result in a heavier adjudication.
2081 A juvenile may be adjudicated to the community service program
2082 only two (2) times;

2083 (iii) The judge shall assess an additional fine on
2084 the juvenile which will be used to pay the costs of implementation
2085 of the program and to pay for supervision by police officers and
2086 reserve officers. The amount of the fine will be based on the
2087 number of hours to which the juvenile has been adjudicated;

2088 (k) Order the child to participate in a youth court
2089 work program as provided in Section 43-21-627; or

2090 (l) Order the child into a juvenile detention center
2091 operated by the county or into a juvenile detention center
2092 operated by any county with which the county in which the court is
2093 located has entered into a contract for the purpose of housing
2094 delinquents. The time period for such detention cannot exceed
2095 sixty (60) days. The youth court judge may order that the number
2096 of days specified in the detention order be served either
2097 throughout the week or on weekends only.

2098 (2) In addition to any of the disposition alternatives
2099 authorized under subsection (1) of this section, the disposition
2100 order in any case in which the child is adjudicated delinquent for
2101 an offense under Section 63-11-30 shall include an order denying
2102 the driver's license and driving privileges of the child as
2103 required under subsection (8) of Section 63-11-30.

2104 (3) If the youth court places a child in a state-supported
2105 training school, the court may order the parents or guardians of
2106 the child and other persons living in the child's household to
2107 receive counseling and parenting classes for rehabilitative
2108 purposes while the child is in the legal custody of the training
2109 school. A youth court entering an order under this subsection (3)
2110 shall utilize appropriate services offered either at no cost or
2111 for a fee calculated on a sliding scale according to income unless
2112 the person ordered to participate elects to receive other
2113 counseling and classes acceptable to the court at the person's
2114 sole expense.

2115 (4) Fines levied under this chapter shall be paid into the
2116 general fund of the county but, in those counties wherein the
2117 youth court is a branch of the municipal government, it shall be
2118 paid into the municipal treasury.

2119 (5) Any institution or agency to which a child has been
2120 committed shall give to the youth court any information concerning
2121 the child as the youth court may at any time require.

2122 (6) The youth court shall not place a child in another
2123 school district who has been expelled from a school district for
2124 the commission of a violent act. For the purpose of this
2125 subsection, "violent act" means any action which results in death
2126 or physical harm to another or an attempt to cause death or
2127 physical harm to another.

2128 (7) The youth court may require drug testing as part of a
2129 disposition order. If a child tests positive, the court may
2130 require treatment, counseling and random testing, as it deems
2131 appropriate. The costs of such tests shall be paid by the parent,
2132 guardian or custodian of the child unless the court specifically
2133 finds that the parent, guardian or custodian is unable to pay.

2134 **SECTION 29.** Section 43-27-8, Mississippi Code of 1972, is
2135 amended as follows:

2136 43-27-8. The Department of Human Services, shall administer
2137 the following duties and responsibilities through the Office of
2138 Youth Services:

2139 (a) To implement and administer laws and policy
2140 relating to youth services and coordinate the efforts of the
2141 department with those of the federal government and other state
2142 departments and agencies, county governments, municipal
2143 governments and private agencies concerned with providing youth
2144 services.

2145 * * *

2146 (b) To promulgate and publish such rules, regulations
2147 and policies of the department as are needed for the efficient
2148 government and maintenance of all * * * programs in accord,
2149 insofar as possible, with currently accepted standards of juvenile
2150 care and treatment.

2151 **SECTION 30.** Section 43-27-20, Mississippi Code of 1972, is
2152 amended as follows:

2153 43-27-20. (1) Within the (Office) of Youth Services
2154 there shall be a Division of Community Services, which shall be
2155 headed by a director appointed by and responsible to the Director
2156 of the Office of Youth Services. He shall hold a master's degree
2157 in social work or a related field and shall have no less than
2158 three (3) years' experience in social services, or in lieu of
2159 that degree and experience, he shall have a minimum of eight (8)
2160 years' experience in social work or a related field. He shall
2161 employ and assign the community workers to serve in the various
2162 areas in the state and any other supporting personnel necessary to
2163 carry out the duties of the Division of Community Services.

2164 (2) The Director of the Division of Community Services
2165 shall assign probation and aftercare workers to the youth court or
2166 family court judges of the various court districts upon the
2167 request of the individual judge on the basis of case load and
2168 need, when funds are available. The probation and aftercare
2169 workers shall live in their respective districts except upon
2170 approval of the Director of the Division of Community Services.
2171 The Director of the Division of Community Services is authorized
2172 to assign a youth services counselor to a district other than the
2173 district in which the youth services counselor lives upon the
2174 approval of the youth court judge of the assigned district and the
2175 Director of the Division of Youth Services. Every placement shall
2176 be with the approval of the youth court or the family court judge,
2177 and a probation and aftercare worker may be removed for cause from
2178 a youth or family court district.

2179 (3) Any counties or cities which, on July 1, 1973, have
2180 court counselors or similar personnel may continue using this
2181 personnel or may choose to come within the statewide framework.

2182 (4) A probation and aftercare worker may be transferred by
2183 the division from one court to another after consultation with the

2184 judge or judges in the court to which the employee is currently
2185 assigned.

2186 (5) The Office of Community Services shall have such duties
2187 as the Office of Youth Services assigns to it, which shall
2188 include, but not be limited to, the following:

2189 (a) Preparing the social, educational and home-life
2190 history and other diagnostic reports on the child for the benefit
2191 of the court or a juvenile justice center under the jurisdiction
2192 of the Department of Juvenile Justice; however, this provision
2193 shall not abridge the power of the court to require similar
2194 services from other agencies, according to law.

2195 (b) Serving in counseling capacities with the youth or
2196 family courts.

2197 (c) Serving as probation agents for the youth or family
2198 courts.

2199 (d) Serving, advising and counseling of children in the
2200 various facilities under the jurisdiction of the Department of
2201 Juvenile Justice as may be necessary to the placement of the
2202 children in proper environment after release and the placement of
2203 children in suitable jobs where necessary and proper.

2204 (e) Supervising and guiding of children released or
2205 conditionally released from facilities under the jurisdiction of
2206 the Department of Juvenile Justice.

2207 (f) Counseling in an aftercare program.

2208 (g) Coordinating the activities of supporting community
2209 agencies which aid in the social adjustment of children released
2210 from the facility and in an aftercare program.

2211 (h) Providing or arranging for necessary services
2212 leading to the rehabilitation of delinquents, either within the
2213 division or through cooperative arrangements with other
2214 appropriate agencies.

2215 (i) Providing counseling and supervision for any child
2216 under ten (10) years of age who has been brought to the attention

2217 of the court when other suitable personnel is not available and
2218 upon request of the court concerned.

2219 (j) Supervising the aftercare program and making
2220 revocation investigations at the request of the court.

2221 (k) This section shall stand repealed on July 1, 2009.

2222 **SECTION 31.** Section 43-27-201, Mississippi Code of 1972, is
2223 amended as follows:

2224 43-27-201. (1) The purpose of this section is to outline
2225 and structure a long-range proposal in addition to certain
2226 immediate objectives for improvements in the juvenile correctional
2227 facilities of the Department of Juvenile Justice in order to
2228 provide modern and efficient correctional and rehabilitation
2229 facilities for juvenile offenders in Mississippi, who are
2230 committing an increasing percentage of serious and violent crimes.

2231 (2) The Department of Finance and Administration, acting
2232 through the Bureau of Building, Grounds and Real Property
2233 Management, using funds from bonds issued under this chapter,
2234 monies appropriated by the Legislature for such purposes, federal
2235 matching or other federal funds, federal grants or other available
2236 funds from whatever source, shall provide for, by construction,
2237 lease, lease-purchase or otherwise, and equip the following
2238 juvenile correctional facilities under the jurisdiction and
2239 responsibility of the Department of Juvenile Justice:

2240 (a) Construct an additional one-hundred-fifty-bed,
2241 stand-alone, medium security juvenile correctional facility for
2242 habitual violent male offenders, which complies with American
2243 Correctional Association Accreditation standards and applicable
2244 building and fire safety codes. The medium security, male
2245 juvenile facility location shall be on property owned by the
2246 Office of Youth Services, or its successor, or at a site selected
2247 by the Bureau of Building, Grounds and Real Property Management on
2248 land which is hereafter donated to the state specifically for the
2249 location of such facility.

2250 (b) Construct an additional one-hundred-bed minimum
2251 security juvenile correctional facility for female offenders, and
2252 an additional stand-alone, fifteen-bed maximum security juvenile
2253 correctional facility for female offenders, which complies with
2254 American Correctional Association Accreditation standards and
2255 applicable building and fire safety codes. The minimum security
2256 and maximum security female juvenile facilities location shall be
2257 on property owned by the Office of Youth Services, or its
2258 successor, or at a site selected by the Bureau of Building,
2259 Grounds and Real Property Management on land which is hereafter
2260 donated to the state specifically for the location of such
2261 facility.

2262 (3) Upon the selection of a proposed site for a correctional
2263 facility for juveniles authorized under subsection (2), the Bureau
2264 of Building, Grounds and Real Property Management of the
2265 Department of Finance and Administration shall notify the board of
2266 supervisors of the county in which such facility is proposed to be
2267 located and shall publish a notice as hereinafter set forth in a
2268 newspaper having general circulation in such county. Such notice
2269 shall include a description of the tract of land in the county
2270 whereon the facility is proposed to be located, the nature and
2271 size of the facility and the date on which the determination of
2272 the Bureau of Building, Grounds and Real Property Management shall
2273 be final as to the location of such facility, which date shall not
2274 be less than forty-five (45) days following the first publication
2275 of such notice. Such notice shall include a brief summary of the
2276 provisions of this section pertaining to the petition for an
2277 election on the question of the location of the juvenile housing
2278 facility in such county. Such notice shall be published not less
2279 than one (1) time each week for at least three (3) consecutive
2280 weeks in at least one (1) newspaper published in such county.

2281 If no petition requesting an election is filed before the
2282 date of final determination stated in such notice, then the bureau
2283 shall give final approval to the location of such facility.

2284 If at any time before the aforesaid date a petition signed by
2285 twenty percent (20%), or fifteen hundred (1,500), whichever is
2286 less, of the qualified electors of the county involved shall be
2287 filed with the board of supervisors requesting that an election be
2288 called on the question of locating such facility, then the board
2289 of supervisors shall adopt a resolution calling an election to be
2290 held within such county upon the question of the location of such
2291 facility. Such election shall be held, as far as practicable, in
2292 the same manner as other elections are held in counties. At such
2293 election, all qualified electors of the county may vote, and the
2294 ballots used at such election shall have printed thereon a brief
2295 statement of the facility to be constructed and the words "For the
2296 construction of the facility in (here insert county name) County"
2297 and "Against the construction of the facility in (here insert
2298 county name) County." The voter shall vote by placing a cross (X)
2299 or check mark (✓) opposite his choice on the proposition. When
2300 the results of the election on the question of the construction of
2301 the facility shall have been canvassed by the election
2302 commissioners of the county and certified by them to the board of
2303 supervisors, it shall be the duty of the board of supervisors to
2304 determine and adjudicate whether or not a majority of the
2305 qualified electors who voted thereon in such election voted in
2306 favor of the construction of the facilities in such county.
2307 Unless a majority of the qualified electors who voted in such
2308 election shall have voted in favor of the construction of the
2309 facilities in such county, then such facility shall not be
2310 constructed in such county.

2311 (4) The Division of Youth Services shall establish, maintain
2312 and operate an Adolescent Offender Program (AOP), which may
2313 include non-Medicaid assistance eligible juveniles. Beginning

2314 July 1, 2006, the Division of Youth Services shall phase in AOPs
2315 in every county of the state over a period of four (4) years.

2316 The phase in of the AOPs shall be as follows:

2317 (a) As of July 1, 2007, all counties shall have at
2318 least one (1) AOP in the Second Congressional District;

2319 (b) As of July 1, 2008, all counties shall have at
2320 least one (1) AOP in the Fourth Congressional District;

2321 (c) As of July 1, 2009, all counties shall have at
2322 least one (1) AOP in the Third Congressional District; and

2323 (d) As of July 1, 2010, all counties shall have at
2324 least one (1) AOP in the First Congressional District.

2325 AOP professional services, salaries, facility offices,
2326 meeting rooms and related supplies and equipment may be provided
2327 through contract with local mental health or other nonprofit
2328 community organizations.

2329 (5) The Department of Juvenile Justice shall operate and
2330 maintain the Forestry Camp Number 43 at the Juvenile Justice
2331 Center at Marion, originally authorized and constructed in 1973,
2332 to consist of a twenty-bed dormitory, four (4) offices, a
2333 classroom, kitchen, dining room, day room and apartment. The
2334 purpose of this camp shall be to train juvenile detention
2335 residents for community college and other forestry training
2336 programs.

2337 (6) The Department of Juvenile Justice shall establish a
2338 ten-bed transitional living facility for the temporary holding of
2339 training school adolescents who have reached their majority, have
2340 completed the GED requirement, and are willing to be rehabilitated
2341 until they are placed in jobs, job training or postsecondary
2342 programs. Such transitional living facility may be operated
2343 pursuant to contract with a nonprofit community support
2344 organization.

2345 **SECTION 32.** Section 43-27-203, Mississippi Code of 1972, is
2346 amended as follows:

2347 43-27-203. (1) There is created under the Mississippi
2348 National Guard a program to be known as the "Youth Challenge
2349 Program." The program shall be an interdiction program designed
2350 for children determined to be "at risk" by the National Guard.
2351 Beginning July 1, 2006, the Youth Challenge Program shall be under
2352 the jurisdiction of the Department of Juvenile Justice, and the
2353 National Guard must report to the Board of the Department of
2354 Juvenile Justice as it relates to the Youth Challenge Program.

2355 (2) The Mississippi National Guard shall implement and
2356 administer the Youth Challenge Program and shall promulgate rules
2357 and regulations concerning the administration of the program. The
2358 National Guard shall prepare written guidelines concerning the
2359 nomination and selection process of participants in the program,
2360 and such guidelines shall include a list of the factors considered
2361 in the selection process.

2362 (3) Participation in the Youth Challenge Program shall be on
2363 a voluntary basis. No child may be sentenced by any court to
2364 participate in the program; however, a youth court judge may refer
2365 the program to a child when, under his determination, such program
2366 would be sufficient to meet the needs of the child.

2367 (4) The Mississippi National Guard, under the auspices of
2368 the Challenge Academy, may award an adult high school diploma to
2369 each participant who meets the requirements for a general
2370 educational development (GED) equivalent under the policies and
2371 guidelines of the GED Testing Service of the American Council on
2372 Education and any other minimum academic requirements prescribed
2373 by the National Guard and Challenge Academy for graduation from
2374 the Youth Challenge Program. Participants in the program who do
2375 not meet the minimum academic requirements may be awarded a
2376 special certificate of attendance. The Mississippi National Guard
2377 and the Challenge Academy shall establish rules and regulations
2378 for awarding the adult high school diploma and shall prescribe the
2379 form for such diploma and the certificate of attendance.

2380 (5) The Mississippi National Guard may accept any available
2381 funds that may be used to defray the expenses of the program
2382 including, but not limited to, federal funding, public or private
2383 funds and any funds that may be appropriated by the Legislature
2384 for that purpose; however, all funding for the Youth Challenge
2385 Program shall be under the jurisdiction of the Department of
2386 Juvenile Justice.

2387 **SECTION 33.** Section 43-27-401, Mississippi Code of 1972, is
2388 amended as follows:

2389 43-27-401. (1) The Department of Juvenile Justice shall
2390 establish a pilot program to be known as the "Amer-I-Can Program."
2391 The program is designed for youths who have been committed to or
2392 are confined in the Juvenile Justice Center at Hinds or the
2393 Juvenile Justice Center at Marion. The objectives of this program
2394 are:

2395 (a) To develop greater self-esteem, assume responsible
2396 attitudes and experience a restructuring of habits and
2397 conditioning processes;

2398 (b) To develop an appreciation of family members and an
2399 understanding of the role family structure has in achieving
2400 successful living;

2401 (c) To develop an understanding of the concept of
2402 community and collective responsibility;

2403 (d) To develop a prowess in problem solving and
2404 decision making that will eliminate many of the difficulties that
2405 were encountered in past experiences;

2406 (e) To develop skills in money management and financial
2407 stability, thus relieving pressures that have contributed to
2408 previous difficulties;

2409 (f) To develop communication skills to better express
2410 thoughts and ideas while acquiring an understanding of and respect
2411 for the thoughts and ideas of others; and

2412 (g) To acquire employment seeking and retention skills
2413 to improve chances of long-term, gainful employment.

2414 (2) The department shall develop policies and procedures to
2415 administer the program and shall choose which youths are eligible
2416 to participate in the program.

2417 (3) The department may accept any funds, public or private,
2418 made available to it for the program.

2419 * * *

2420 **SECTION 34.** Section 47-5-138, Mississippi Code of 1972, is
2421 amended as follows:

2422 47-5-138. (1) The department may promulgate rules and
2423 regulations to carry out an earned time allowance program based on
2424 the good conduct and performance of an inmate. An inmate is
2425 eligible to receive an earned time allowance of one-half (1/2) of
2426 the period of confinement imposed by the court except those
2427 inmates excluded by law. When an inmate is committed to the
2428 custody of the department, the department shall determine a
2429 conditional earned time release date by subtracting the earned
2430 time allowance from an inmate's term of sentence. This subsection
2431 does not apply to any sentence imposed after June 30, 1995.

2432 (2) An inmate may forfeit all or part of his earned time
2433 allowance for a serious violation of rules. No forfeiture of the
2434 earned time allowance shall be effective except upon approval of
2435 the commissioner or his designee, and forfeited earned time may
2436 not be restored.

2437 (3) (a) For the purposes of this subsection, "final order"
2438 means an order of a state or federal court that dismisses a
2439 lawsuit brought by an inmate while the inmate was in the custody
2440 of the Department of Corrections as frivolous, malicious or for
2441 failure to state a claim upon which relief could be granted.

2442 (b) On receipt of a final order, the department shall
2443 forfeit:

2444 (i) Sixty (60) days of an inmate's accrued earned
2445 time if the department has received one (1) final order as defined
2446 herein;

2447 (ii) One hundred twenty (120) days of an inmate's
2448 accrued earned time if the department has received two (2) final
2449 orders as defined herein;

2450 (iii) One hundred eighty (180) days of an inmate's
2451 accrued earned time if the department has received three (3) or
2452 more final orders as defined herein.

2453 (c) The department may not restore earned time
2454 forfeited under this subsection.

2455 (4) An inmate who meets the good conduct and performance
2456 requirements of the earned time allowance program may be released
2457 on his conditional earned time release date.

2458 (5) For any sentence imposed after June 30, 1995, an inmate
2459 may receive an earned time allowance of four and one-half (4-1/2)
2460 days for each thirty (30) days served if the department determines
2461 that the inmate has complied with the good conduct and performance
2462 requirements of the earned time allowance program. The earned
2463 time allowance under this subsection shall not exceed fifteen
2464 percent (15%) of an inmate's term of sentence; however, beginning
2465 July 1, 2006, no person under the age of twenty-one (21) who has
2466 committed a nonviolent offense, and who is under the jurisdiction
2467 of the Department of Corrections, shall be subject to the fifteen
2468 percent (15%) limitation for earned time allowances as described
2469 in this subsection (5).

2470 (6) Any inmate, who is released before the expiration of his
2471 term of sentence under this section, shall be placed under
2472 earned-release supervision until the expiration of the term of
2473 sentence. The inmate shall retain inmate status and remain under
2474 the jurisdiction of the department. The period of earned-release
2475 supervision shall be conducted in the same manner as a period of
2476 supervised parole. The department shall develop rules, terms and

2477 conditions for the earned-release supervision program. The
2478 commissioner shall designate the appropriate hearing officer
2479 within the department to conduct revocation hearings for inmates
2480 violating the conditions of earned-release supervision.

2481 (7) If the earned-release supervision is revoked, the inmate
2482 shall serve the remainder of the sentence and the time the inmate
2483 was on earned-release supervision, shall not be applied to and
2484 shall not reduce his sentence.

2485 **SECTION 35.** Section 47-5-151, Mississippi Code of 1972, is
2486 amended as follows:

2487 47-5-151. The superintendent (warden) or other person in
2488 charge of prisoners, upon the death of any prisoner under his care
2489 and control, shall at once notify the county medical examiner or
2490 county medical examiner investigator (hereinafter "medical
2491 examiner") of the county in which the prisoner died, of the death
2492 of the prisoner, and it shall be the duty of such medical
2493 examiner, when so notified of the death of such person, to obtain
2494 a court order and notify the State Medical Examiner of the death
2495 of such prisoner. It shall be mandatory that the State Medical
2496 Examiner cause an autopsy to be performed upon the body of the
2497 deceased prisoner. Furthermore, the State Medical Examiner shall
2498 investigate any case where a person is found dead on the premises
2499 of the correctional system, in accordance with Sections 41-61-51
2500 through 41-61-79. The State Medical Examiner shall make a written
2501 report of his investigation, and shall furnish a copy of the same,
2502 including the autopsy report, to the superintendent (warden) and a
2503 copy of the same to the district attorney of the county in which
2504 the prisoner died. The copy so furnished to the district attorney
2505 shall be turned over by the district attorney to the grand jury,
2506 and it shall be the duty of the grand jury, if there be any
2507 suspicion of wrongdoing shown by the inquest papers, to thoroughly
2508 investigate the cause of such death.

2509 It shall be the duty of the medical examiner of the county in
2510 which the prisoner died to arrange for the remains to be
2511 transported to the State Medical Examiner for the autopsy, and
2512 accompanying the remains shall be the court order for autopsy and
2513 any documents or records pertaining to the deceased prisoner,
2514 institutional health records or other information relating to the
2515 circumstances surrounding the prisoner's death. The State Medical
2516 Examiner shall arrange for the remains to be transported to the
2517 county in which the prisoner died following completion of the
2518 autopsy. If the remains are not claimed for burial within
2519 forty-eight (48) hours after autopsy, then the remains may be
2520 delivered to the University of Mississippi Medical Center for use
2521 in medical research or anatomical study.

2522 The provisions herein set forth in the first paragraph shall
2523 likewise apply to any case in which any person is found dead on
2524 the premises of the Mississippi State Penitentiary, except that
2525 the autopsy to be performed on the body of such a person shall not
2526 be mandatory upon a person who is not a prisoner unless the
2527 medical examiner determines that the death resulted from
2528 circumstances raising questions as to the cause of death, in which
2529 case the medical examiner may cause an autopsy to be performed
2530 upon the body of such deceased person in the same manner as
2531 authorized to be performed upon the body of a deceased prisoner.

2532 * * * The provisions * * * of this section shall apply with
2533 respect to any deceased prisoner who at the time of death is being
2534 detained by duly constituted state authority such as the Juvenile
2535 Justice Center at Marion, Juvenile Justice Center at Hinds,
2536 Mississippi State Hospital at Whitfield, East Mississippi State
2537 Hospital, or any other state institution.

2538 The provisions of this section shall not apply to a prisoner
2539 who was lawfully executed as provided in Sections 99-19-49 through
2540 99-19-55.

2541 Any officer or employee of the prison system or any other
2542 officer, employee or person having charge of any prisoner who
2543 shall fail to immediately notify the medical examiner of the death
2544 of such prisoner, shall be guilty of a misdemeanor and, upon
2545 conviction thereof, shall be punished by a fine of not less than
2546 One Hundred Dollars (\$100.00) nor more than Five Hundred dollars
2547 (\$500.00) and by confinement in the county jail for not more than
2548 one (1) year.

2549 **SECTION 36.** Section 47-7-45, Mississippi Code of 1972, is
2550 amended as follows:

2551 47-7-45. The provisions of this chapter shall not apply to
2552 probation under the Youth Court Law nor to parole from the
2553 Juvenile Justice Center at Marion and the Juvenile Justice Center
2554 at Hinds.

2555 **SECTION 37.** Section 65-1-37, Mississippi Code of 1972, is
2556 amended as follows:

2557 65-1-37. The Mississippi Transportation Commission is hereby
2558 authorized and empowered to have the Mississippi Department of
2559 Transportation construct, repair and maintain the driveways and
2560 streets on the grounds of the universities and colleges under the
2561 jurisdiction of the Board of Trustees of the State Institutions of
2562 Higher Learning, state, and/or county supported junior colleges,
2563 the state hospitals, and institutions under the jurisdiction of
2564 the Department of Mental Health, the Juvenile Justice Center at
2565 Marion, the Juvenile Justice Center at Hinds, the Mississippi
2566 Schools for the Deaf and Blind, and the Mississippi Department of
2567 Wildlife, Fisheries and Parks in the manner provided herein,
2568 including bypasses to connect those driveways and streets with
2569 roads on the state highway system, and the main thoroughfare
2570 running east and west through the grounds of the Mississippi
2571 Penitentiary, provided that the institutions obtain the necessary
2572 rights-of-way, those institutions being * * * authorized so to do
2573 by this section.

2574 The Transportation Commission and the governing boards of
2575 the institutions shall enter into an agreement prior to
2576 undertaking any of the work mentioned in the first paragraph of
2577 this section, and the agreement shall be based on the
2578 Transportation Department's furnishing equipment, equipment
2579 operators, skilled labor, supervision, and engineering services,
2580 and the governing bodies of the aforementioned institutions shall
2581 furnish material, supplies and common labor. This agreement shall
2582 further provide for reimbursement of the Mississippi Department of
2583 Transportation, in full, for the expenditures incurred in the
2584 construction, repair and maintenance of driveways and streets at
2585 the institutions hereinabove mentioned, such reimbursement to be
2586 made directly to the Mississippi Transportation Commission from
2587 the institutions. Upon the execution of an agreement as set out
2588 herein, the Mississippi Department of Transportation may provide
2589 all the necessary engineering, supervision, skilled labor,
2590 equipment, and equipment operators to perform such work.

2591 **SECTION 38.** Section 99-43-3, Mississippi Code of 1972, is
2592 amended as follows:

2593 99-43-3. As used in this chapter, the following words shall
2594 have the meanings ascribed to them unless the context clearly
2595 requires otherwise:

2596 (a) "Accused" means a person who has been arrested for
2597 committing a criminal offense and who is held for an initial
2598 appearance or other proceeding before trial or who is a target of
2599 an investigation for committing a criminal offense.

2600 (b) "Appellate proceeding" means an oral argument held
2601 in open court before the Mississippi Court of Appeals, the
2602 Mississippi Supreme Court, a federal court of appeals or the
2603 United States Supreme Court.

2604 (c) "Arrest" means the actual custodial restraint of a
2605 person or his submission to custody.

2606 (d) "Community status" means extension of the limits of
2607 the places of confinement of a prisoner through work release,
2608 intensive supervision, house arrest and initial consideration of
2609 pre-discretionary leave, passes and furloughs.

2610 (e) "Court" means all state courts including juvenile
2611 courts.

2612 (f) "Victim assistance coordinator" means a person who
2613 is employed or authorized by a public entity or a private entity
2614 that receives public funding primarily to provide counseling,
2615 treatment or other supportive assistance to crime victims.

2616 (g) "Criminal offense" means conduct that gives a law
2617 enforcement officer or prosecutor probable cause to believe that a
2618 felony involving physical injury, the threat of physical injury,
2619 a sexual offense, any offense involving spousal abuse or domestic
2620 violence has been committed.

2621 (h) "Criminal proceeding" means a hearing, argument or
2622 other matter scheduled by and held before a trial court but does
2623 not include a lineup, grand jury proceeding or other matter not
2624 held in the presence of the court.

2625 (i) "Custodial agency" means a municipal or county
2626 jail, the Department of Corrections, juvenile detention facility,
2627 Department of Juvenile Justice or a secure mental health facility
2628 having custody of a person who is arrested or is in custody for a
2629 criminal offense.

2630 (j) "Defendant" means a person or entity that is
2631 formally charged by complaint, indictment or information of
2632 committing a criminal offense.

2633 (k) "Final disposition" means the ultimate termination
2634 of the criminal prosecution of a defendant by a trial court,
2635 including dismissal, acquittal or imposition of a sentence.

2636 (l) "Immediate family" means the spouse, parent, child,
2637 sibling, grandparent or guardian of the victim, unless that person
2638 is in custody for an offense or is the accused.

2639 (m) "Lawful representative" means a person who is a
2640 member of the immediate family or who is designated as provided in
2641 Section 99-43-5; no person in custody for an offense or who is the
2642 accused may serve as lawful representative.

2643 (n) "Post-arrest release" means the discharge of the
2644 accused from confinement on recognizance, bond or other condition.

2645 (o) "Post-conviction release" means parole or discharge
2646 from confinement by an agency having custody of the prisoner.

2647 (p) "Post-conviction relief proceeding" means a
2648 hearing, argument or other matter that is held in any court and
2649 that involves a request for relief from a conviction, sentence or
2650 adjudication.

2651 (q) "Prisoner" means a person who has been convicted or
2652 adjudicated of a criminal offense against a victim and who has
2653 been sentenced to the custody of the sheriff, the Department of
2654 Corrections, Department of Juvenile Justice, juvenile detention
2655 facility, a municipal jail or a secure mental health facility.

2656 (r) "Prosecuting attorney" means the district attorney,
2657 county prosecuting attorney, municipal prosecuting attorney, youth
2658 court prosecuting attorney, special prosecuting attorney or
2659 Attorney General.

2660 (s) "Right" means any right granted to the victim by
2661 the laws of this state.

2662 (t) "Victim" means a person against whom the criminal
2663 offense has been committed, or if the person is deceased or
2664 incapacitated, the lawful representative.

2665 **SECTION 39.** Sections 43-27-10, 43-27-11, 43-27-12, 43-27-22,
2666 43-27-23, 43-27-25, 43-27-27, 43-27-29 and 43-27-35, Mississippi
2667 Code of 1972, which provide that the Department of Human Services
2668 has jurisdiction over the juvenile correctional facilities, are
2669 repealed.

2670 **SECTION 40.** Section 9-9-1, Mississippi Code of 1972, is
2671 amended as follows:

2672 9-9-1. (1) There shall be an inferior court to be known as
2673 the county court in and for each of the following single
2674 districts:

2675 * * *

- 2676 (a) Adams County;
- 2677 (b) Bolivar County;
- 2678 (c) DeSoto County;
- 2679 (d) Forrest County;
- 2680 (e) Hancock County;
- 2681 (f) Harrison County;
- 2682 (g) Hinds County;
- 2683 (h) Jackson County;
- 2684 (i) Jones County;
- 2685 (j) Lauderdale County;
- 2686 (k) Lee County;
- 2687 (l) Leflore County;
- 2688 (m) Lowndes County;
- 2689 (n) Madison County;
- 2690 (o) Pike County;
- 2691 (p) Rankin County;
- 2692 (q) Warren County;
- 2693 (r) Washington County; and
- 2694 (s) Yazoo County.

2695 (2) There shall be an inferior court to be known as the
2696 county court in and for each of the following multicounty
2697 districts:

- 2698 (a) Alcorn and Prentiss Counties;
- 2699 (b) Coahoma and Tunica Counties;
- 2700 (c) Marshall, Benton and Tippah Counties;
- 2701 (d) Lafayette and Union Counties;
- 2702 (e) Sunflower and Humphreys Counties;
- 2703 (f) Copiah and Lincoln Counties;
- 2704 (g) Lamar and Pearl River Counties;

2705 (h) Itawamba and Monroe Counties;

2706 (i) Tate and Panola Counties;

2707 (j) Grenada and Montgomery Counties;

2708 (k) Oktibbeha and Winston Counties; and

2709 (l) Walthall and Marion Counties.

2710 (3) (a) Except as provided in (b) of this subsection, there
2711 shall be one (1) county court judge for each county court
2712 district.

2713 (b) There shall be two (2) county court judges for the
2714 county court of Jackson County, three (3) county court judges for
2715 the county court of Harrison County and three (3) county court
2716 judges for the county court of Hinds County.

2717 **SECTION 41.** Section 9-9-5, Mississippi Code of 1972, is
2718 amended as follows:

2719 9-9-5. (1) The county judge shall possess all of the
2720 qualifications of a circuit judge as prescribed by the Mississippi
2721 Constitution. The judge of a multicounty district county court
2722 may be a qualified elector of any one (1) of said counties.
2723 Except as provided in subsection (2), the county judge of a single
2724 county district must be a qualified elector of the county. The
2725 county judge of a multicounty district must be a qualified elector
2726 of any one (1) of the counties comprising the district. Except as
2727 provided in subsection (2) of this section, the court district
2728 county judge shall be elected by the qualified electors of his
2729 county at the time and in the manner as circuit judges are elected
2730 and he shall hold office for the same term. Vacancies in the
2731 office of county judge shall be filled in the same manner as
2732 vacancies in the office of circuit judge.

2733 (2) (a) Except as provided in paragraphs (b) and (c) of
2734 this subsection, the county court judges elected to a term
2735 beginning January 1, 2004, or appointed to fill a vacancy in such
2736 a judgeship shall continue to serve in those positions until the

2737 holder's death, resignation or disqualification or upon expiration
2738 of term.

2739 (b) Effective January 1, 2006, that judge elected or
2740 appointed judge of the county court of Coahoma County for the term
2741 beginning January 1, 2004, shall be the judge of the county court
2742 of Coahoma and Tunica Counties for a term expiring December 31,
2743 2007.

2744 (c) Effective January 1, 2006, that judge elected or
2745 appointed judge of the family court of Harrison County shall be a
2746 judge of the county court of Harrison County for a term expiring
2747 December 31, 2007.

2748 (d) Except as provided in paragraph (b) of this
2749 subsection, the initial election of county court judges for the
2750 multicounty district county courts set forth at Section 9-9-1(2),
2751 Mississippi Code of 1972, shall be for a term to begin January 1,
2752 2006, which term shall expire on December 31, 2010. The election
2753 shall be held on the first Tuesday after the first Monday of
2754 November 2005, and shall be otherwise conducted as is provided by
2755 law for the election of circuit judges. The terms of the county
2756 court judges so elected shall thereafter be as provided for county
2757 court judges in this chapter.

2758 (3) In a district having more than one (1) office of county
2759 court judge, there shall be no distinction whatsoever in the
2760 powers, duties and emoluments of those offices except that the
2761 judge who has been for the longest time continuously a judge of
2762 that court or, should no judge have served longer in office than
2763 the others, the judge who has been for the longest time a member
2764 of the Mississippi Bar, shall be the senior judge. The senior
2765 judge shall have the right to assign causes and dockets and to set
2766 terms in districts consisting of more than one (1) county.

2767 **SECTION 42.** Section 9-9-11, Mississippi Code of 1972, is
2768 amended as follows:

2769 9-9-11. * * * The county court judge shall receive an
2770 annual salary payable monthly out of the State General Fund in the
2771 same amount * * * which is now or shall hereafter be provided for
2772 circuit and chancery judges of this state. * * * The office of
2773 county court judge * * * shall be a full-time position * * *.
2774 * * *

2775 **SECTION 43.** Section 9-9-19, Mississippi Code of 1972, is
2776 amended as follows:

2777 9-9-19. (1) There shall be a court to be styled "The County
2778 Court of the County of _____" in each county of a county
2779 court district as determined to be necessary by the senior county
2780 court judge; but in counties where there are two (2) judicial
2781 districts and in multicounty court districts the county court
2782 shall be convened in each judicial court district and in each
2783 county not less than four (4) times each year.

2784 * * *

2785 **SECTION 44.** Section 9-9-21, Mississippi Code of 1972, is
2786 amended as follows:

2787 9-9-21. (1) The jurisdiction of the county court shall be
2788 as follows: It shall have jurisdiction concurrent with the
2789 justice court in all matters, civil and criminal of which the
2790 justice court has jurisdiction; and it shall have jurisdiction
2791 concurrent with the circuit and chancery courts in all matters of
2792 law and equity wherein the amount of value of the thing in
2793 controversy shall not exceed, exclusive of costs and interest, the
2794 sum of Two Hundred Thousand Dollars (\$200,000.00), and the
2795 jurisdiction of the county court shall not be affected by any
2796 setoff, counterclaim or cross-bill in such actions where the
2797 amount sought to be recovered in such setoff, counterclaim or
2798 cross-bill exceeds Two Hundred Thousand Dollars (\$200,000.00).
2799 Provided, however, the party filing such setoff, counterclaim or
2800 cross-bill which exceeds Two Hundred Thousand Dollars
2801 (\$200,000.00) shall give notice to the opposite party or parties

2802 as provided in Section 13-3-83, and on motion of all parties filed
2803 within twenty (20) days after the filing of such setoff,
2804 counterclaim or cross-bill, the county court shall transfer the
2805 case to the circuit or chancery court wherein the county court is
2806 situated and which would otherwise have jurisdiction. It shall
2807 have exclusively the jurisdiction heretofore exercised by the
2808 justice court in the following matters and causes: namely,
2809 eminent domain, the partition of personal property, and actions of
2810 unlawful entry and detainer, provided that the actions of eminent
2811 domain and unlawful entry and detainer may be returnable and
2812 triable before the judge of said court in vacation.

2813 (2) In multi-district county courts, it shall be lawful for
2814 such court sitting in one (1) county to act upon any and all
2815 matters of which it has jurisdiction as provided by law arising in
2816 the other county under the jurisdiction of said court.

2817 **SECTION 45.** Section 9-9-23, Mississippi Code of 1972, is
2818 amended as follows:

2819 9-9-23. The county judge shall have power to issue writs,
2820 and to try matters, of habeas corpus on application to him
2821 therefor, or when made returnable before him by a superior judge.
2822 He shall also have the power to order the issuance of writs of
2823 certiorari, supersedeas, attachments, and other remedial writs in
2824 all cases pending in, or within the jurisdiction of, his court.
2825 He shall have the authority to issue search warrants in his
2826 district returnable to his own court or to any court of a justice
2827 court judge within his district in the same manner as is provided
2828 by law for the issuance of search warrants by justice court
2829 judges. In all cases pending in, or within the jurisdiction of,
2830 his court, he shall have, in termtime, and in vacation, the power
2831 to order, do or determine to the same extent and in the same
2832 manner as a justice court judge or a circuit judge or a chancellor
2833 could do in termtime or in vacation in such cases. But he shall
2834 not have original power to issue writs of injunction, or other

2835 remedial writs in equity or in law except in those cases
2836 hereinabove specified as being within his jurisdiction: provided,
2837 however, that when any judge or chancellor authorized to issue
2838 such writs of injunction, or any other equitable or legal remedial
2839 writs hereinabove reserved, shall so direct in writing the hearing
2840 of application therefor may be by him referred to the county
2841 judge, in which event the said direction of the superior judge
2842 shall vest in the said county judge all authority to take such
2843 action on said application as the said superior judge could have
2844 taken under the right and the law, had the said application been
2845 at all times before the said superior judge. The jurisdiction
2846 authorized under the foregoing proviso shall cease upon the
2847 denying or granting of the application.

2848 **SECTION 46.** Section 25-3-25, Mississippi Code of 1972, is
2849 amended as follows:

2850 25-3-25. (1) Except as otherwise provided in subsections
2851 (2) through (9), the salaries of sheriffs of the various counties
2852 are fixed as full compensation for their services.

2853 From and after October 1, 1998, the annual salary for each
2854 sheriff shall be based upon the total population of his county
2855 according to the latest federal decennial census in the following
2856 categories and for the following amounts; however, no sheriff
2857 shall be paid less than the salary authorized under this section
2858 to be paid the sheriff based upon the population of the county
2859 according to the 1980 federal decennial census:

2860 (a) For counties with a total population of more than
2861 two hundred thousand (200,000), a salary of Ninety Thousand
2862 Dollars (\$90,000.00).

2863 (b) For counties with a total population of more than
2864 one hundred thousand (100,000) and not more than two hundred
2865 thousand (200,000), a salary of Eighty-four Thousand Dollars
2866 (\$84,000.00).

2867 (c) For counties with a total population of more than
2868 forty-five thousand (45,000) and not more than one hundred
2869 thousand (100,000), a salary of Seventy-eight Thousand Dollars
2870 (\$78,000.00).

2871 (d) For counties with a total population of more than
2872 thirty-four thousand (34,000) and not more than forty-five
2873 thousand (45,000), a salary of Seventy-two Thousand Dollars
2874 (\$72,000.00).

2875 (e) For counties with a total population of more than
2876 twenty-five thousand (25,000) and not more than thirty-four
2877 thousand (34,000), a salary of Sixty-two Thousand Four Hundred
2878 Dollars (\$62,400.00).

2879 (f) For counties with a total population of more than
2880 fifteen thousand (15,000) and not more than twenty-five thousand
2881 (25,000), a salary of Sixty Thousand Dollars (\$60,000.00).

2882 (g) For counties with a total population of more than
2883 nine thousand five hundred (9,500) and not more than fifteen
2884 thousand (15,000), a salary of Fifty-six Thousand Four Hundred
2885 Dollars (\$56,400.00).

2886 (h) For counties with a total population of not more
2887 than nine thousand five hundred (9,500), a salary of Fifty-five
2888 Thousand Dollars (\$55,000.00).

2889 (2) In addition to the salary provided for in subsection (1)
2890 of this section, the Board of Supervisors of Leflore County, in
2891 its discretion, may pay an annual supplement to the sheriff of the
2892 county in an amount not to exceed Ten Thousand Dollars
2893 (\$10,000.00). The Legislature finds and declares that the annual
2894 supplement authorized by this subsection is justified in such
2895 county for the following reasons:

2896 (a) The Mississippi Department of Corrections operates
2897 and maintains a restitution center within the county;

2898 (b) The Mississippi Department of Corrections operates
2899 and maintains a community work center within the county;

2900 (c) There is a resident circuit court judge in the
2901 county whose office is located at the Leflore County Courthouse;

2902 (d) There is a resident chancery court judge in the
2903 county whose office is located at the Leflore County Courthouse;

2904 (e) The Magistrate for the Fourth Circuit Court
2905 District is located in the county and maintains his office at the
2906 Leflore County Courthouse;

2907 (f) The Region VI Mental Health-Mental Retardation
2908 Center, which serves a multicounty area, calls upon the sheriff to
2909 provide security for out-of-town mental patients, as well as
2910 patients from within the county;

2911 (g) The increased activity of the Child Support
2912 Division of the Department of Human Services in enforcing in the
2913 courts parental obligations has imposed additional duties on the
2914 sheriff; and

2915 (h) The dispatchers of the enhanced E-911 system in
2916 place in Leflore County has been placed under the direction and
2917 control of the sheriff.

2918 (3) In addition to the salary provided for in subsection (1)
2919 of this section, the Board of Supervisors of Rankin County, in its
2920 discretion, may pay an annual supplement to the sheriff of the
2921 county in an amount not to exceed Ten Thousand Dollars
2922 (\$10,000.00). The Legislature finds and declares that the annual
2923 supplement authorized by this subsection is justified in such
2924 county for the following reasons:

2925 (a) The Mississippi Department of Corrections operates
2926 and maintains the Central Mississippi Correctional Facility within
2927 the county;

2928 (b) The State Hospital is operated and maintained
2929 within the county at Whitfield;

2930 (c) Hudspeth Regional Center, a facility maintained for
2931 the care and treatment of the mentally retarded, is located within
2932 the county;

2933 (d) The Mississippi Law Enforcement Officers Training
2934 Academy is operated and maintained within the county;

2935 (e) The State Fire Academy is operated and maintained
2936 within the county;

2937 (f) The Pearl River Valley Water Supply District,
2938 ordinarily known as the "Reservoir District," is located within
2939 the county;

2940 (g) The Jackson International Airport is located within
2941 the county;

2942 (h) The patrolling of the state properties located
2943 within the county has imposed additional duties on the sheriff;
2944 and

2945 (i) The sheriff, in addition to providing security to
2946 the nearly one hundred thousand (100,000) residents of the county,
2947 has the duty to investigate, solve and assist in the prosecution
2948 of any misdemeanor or felony committed upon any state property
2949 located in Rankin County.

2950 (4) In addition to the salary provided for in subsection (1)
2951 of this section, the Board of Supervisors of Neshoba County shall
2952 pay an annual supplement to the sheriff of the county an amount
2953 equal to Ten Thousand Dollars (\$10,000.00).

2954 (5) In addition to the salary provided for in subsection (1)
2955 of this section, the Board of Supervisors of Tunica County, in its
2956 discretion, may pay an annual supplement to the sheriff of the
2957 county an amount equal to Ten Thousand Dollars (\$10,000.00),
2958 payable beginning April 1, 1997.

2959 (6) In addition to the salary provided for in subsection (1)
2960 of this section, the Board of Supervisors of Hinds County shall
2961 pay an annual supplement to the sheriff of the county in an amount
2962 equal to Fifteen Thousand Dollars (\$15,000.00). The Legislature
2963 finds and declares that the annual supplement authorized by this
2964 subsection is justified in such county for the following reasons:

2965 (a) Hinds County has the greatest population of any
2966 county, two hundred fifty-four thousand four hundred forty-one
2967 (254,441) by the 1990 census, being almost one hundred thousand
2968 (100,000) more than the next most populous county;

2969 (b) Hinds County is home to the State Capitol and the
2970 seat of all state government offices;

2971 (c) Hinds County is the third largest county in
2972 geographic area, containing eight hundred seventy-five (875)
2973 square miles;

2974 (d) Hinds County is comprised of two (2) judicial
2975 districts, each having a courthouse and county office buildings;

2976 (e) There are four (4) resident circuit judges, four
2977 (4) resident chancery judges, and three (3) resident county judges
2978 in Hinds County, the most of any county, with the sheriff acting
2979 as chief executive officer and provider of bailiff services for
2980 all;

2981 (f) The main offices for the clerk and most of the
2982 judges and magistrates for the United States District Court for
2983 the Southern District of Mississippi are located within the
2984 county;

2985 (g) The state's only urban university, Jackson State
2986 University, is located within the county;

2987 (h) The University of Mississippi Medical Center,
2988 combining the medical school, dental school, nursing school and
2989 hospital, is located within the county;

2990 (i) Mississippi Veterans Memorial Stadium, the state's
2991 largest sports arena, is located within the county;

2992 (j) The Mississippi State Fairgrounds, including the
2993 Coliseum and Trade Mart, are located within the county;

2994 (k) Hinds County has the largest criminal population in
2995 the state, such that the Hinds County Sheriff's Department
2996 operates the largest county jail system in the state, housing

2997 almost one thousand (1,000) inmates in three (3) separate
2998 detention facilities;

2999 (l) The Hinds County Sheriff's Department handles more
3000 mental and drug and alcohol commitments cases than any other
3001 sheriff's department in the state;

3002 (m) The Mississippi Department of Corrections maintains
3003 a restitution center within the county;

3004 (n) The Mississippi Department of Corrections regularly
3005 houses as many as one hundred (100) state convicts within the
3006 Hinds County jail system; and

3007 (o) The Hinds County Sheriff's Department is regularly
3008 asked to provide security services not only at the Fairgrounds and
3009 Memorial Stadium, but also for events at the Mississippi Museum of
3010 Art and Jackson City Auditorium.

3011 (7) In addition to the salary provided for in subsection (1)
3012 of this section, the Board of Supervisors of Wilkinson County, in
3013 its discretion, may pay an annual supplement to the sheriff of the
3014 county in an amount not to exceed Ten Thousand Dollars
3015 (\$10,000.00). The Legislature finds and declares that the annual
3016 supplement authorized by this subsection is justified in such
3017 county because the Mississippi Department of Corrections contracts
3018 for the private incarceration of state inmates at a private
3019 correctional facility within the county.

3020 (8) In addition to the salary provided for in subsection (1)
3021 of this section, the Board of Supervisors of Marshall County, in
3022 its discretion, may pay an annual supplement to the sheriff of the
3023 county in an amount not to exceed Ten Thousand Dollars
3024 (\$10,000.00). The Legislature finds and declares that the annual
3025 supplement authorized by this subsection is justified in such
3026 county because the Mississippi Department of Corrections contracts
3027 for the private incarceration of state inmates at a private
3028 correctional facility within the county.

3029 (9) In addition to the salary provided in subsection (1) of
3030 this section, the Board of Supervisors of Greene County, in its
3031 discretion, may pay an annual supplement to the sheriff of the
3032 county in an amount not to exceed Ten Thousand Dollars
3033 (\$10,000.00). The Legislature finds and declares that the annual
3034 supplement authorized by this subsection is justified in such
3035 county for the following reasons:

3036 (a) The Mississippi Department of Corrections operates
3037 and maintains the South Mississippi Correctional Facility within
3038 the county;

3039 (b) In 1996, additional facilities to house another one
3040 thousand four hundred sixteen (1,416) male offenders were
3041 constructed at the South Mississippi Correctional Facility within
3042 the county; and

3043 (c) The patrolling of the state properties located
3044 within the county has imposed additional duties on the sheriff
3045 justifying additional compensation.

3046 (10) In addition to the salary provided in subsection (1) of
3047 this section, the board of supervisors of any county, in its
3048 discretion, may pay an annual supplement to the sheriff of the
3049 county in an amount not to exceed Ten Thousand Dollars
3050 (\$10,000.00). The amount of the supplement shall be spread on the
3051 minutes of the board. The annual supplement authorized in this
3052 subsection shall not be in addition to the annual supplements
3053 authorized in subsections (2) through (9).

3054 (11) The salaries provided in this section shall be payable
3055 monthly on the first day of each calendar month by chancery
3056 clerk's warrant drawn on the general fund of the county; however,
3057 the board of supervisors, by resolution duly adopted and entered
3058 on its minutes, may provide that such salaries shall be paid
3059 semimonthly on the first and fifteenth day of each month. If a
3060 pay date falls on a weekend or legal holiday, salary payments

3061 shall be made on the workday immediately preceding the weekend or
3062 legal holiday.

3063 (12) The salary of a sheriff shall not be reduced during his
3064 or her term of office as a result of a population decrease based
3065 upon the 2000 federal decennial census.

3066 **SECTION 47.** Section 9-9-3, Mississippi Code of 1972, which
3067 provides for the establishment of a county court by agreement
3068 between two (2) or more counties, is repealed.

3069 **SECTION 48.** Section 9-9-9, Mississippi Code of 1972, which
3070 restricts the practice of law by a county court judge, is
3071 repealed.

3072 **SECTION 49.** Section 9-9-13, Mississippi Code of 1972, which
3073 authorizes the governing body of certain municipalities to
3074 supplement the salaries of county judicial officers, is repealed.

3075 **SECTION 50.** Section 9-9-14, Mississippi Code of 1972, which
3076 authorizes two (2) county judgeships for Harrison County, is
3077 repealed.

3078 **SECTION 51.** Section 9-9-15, Mississippi Code of 1972, which
3079 authorizes three (3) county judgeships for Hinds County, is
3080 repealed.

3081 **SECTION 52.** Section 9-9-16, Mississippi Code of 1972, which
3082 authorizes two (2) county judgeships for Washington County, is
3083 repealed.

3084 **SECTION 53.** Section 9-9-17, Mississippi Code of 1972, which
3085 authorizes two (2) county judgeships for Jackson County, is
3086 repealed.

3087 **SECTION 54.** Section 9-9-37, Mississippi Code of 1972, which
3088 provides that certain counties may establish or abolish county
3089 courts, is repealed.

3090 **SECTION 55.** Section 9-9-39, Mississippi Code of 1972, which
3091 provides for transferring matters in abolished county courts, is
3092 repealed.

3093 **SECTION 56.** Section 9-9-41, Mississippi Code of 1972, which
3094 provides for an election to determine if a county court should be
3095 abolished, is repealed.

3096 **SECTION 57.** Section 9-9-43, Mississippi Code of 1972, which
3097 requires legislative action or election to abolish certain county
3098 courts, is repealed.

3099 **SECTION 58.** Section 9-9-45, Mississippi Code of 1972, which
3100 provides for the future eligibility of certain counties to
3101 establish or abolish county courts, is repealed.

3102 **SECTION 59.** Section 9-1-19, Mississippi Code of 1972, is
3103 amended as follows:

3104 9-1-19. The judges of the Supreme, circuit and county courts
3105 and chancellors and judges of the Court of Appeals, in termtime
3106 and in vacation, may severally order the issuance of writs of
3107 habeas corpus, mandamus, certiorari, supersedeas and attachments,
3108 and grant injunctions and all other remedial writs, in all cases
3109 where the same may properly be granted according to right and
3110 justice, returnable to any court, whether the suit or proceedings
3111 be pending in the district of the judge or chancellor granting the
3112 same or not. The fiat of such judge or chancellor shall authorize
3113 the issuance of the process for a writ returnable to the proper
3114 court or before the proper officer; and all such process or writs
3115 may be granted, issued and executed on Sunday.

3116 **SECTION 60.** Section 9-1-23, Mississippi Code of 1972, is
3117 amended as follows:

3118 9-1-23. The judges of the Supreme, circuit and county courts
3119 and chancellors and judges of the Court of Appeals shall be
3120 conservators of the peace for the state, each with full power to
3121 do all acts which conservators of the peace may lawfully do; and
3122 the circuit judges, chancellors and county judges shall reside
3123 within their respective districts * * *.

3124 **SECTION 61.** Section 9-1-25, Mississippi Code of 1972, is
3125 amended as follows:

3126 9-1-25. It shall not be lawful for any judge of the Supreme
3127 Court, Court of Appeals or a judge of the circuit or county court,
3128 or a chancellor to exercise the profession or employment of an
3129 attorney or counselor at law, or to be engaged in the practice of
3130 law; and any person offending against this prohibition shall be
3131 guilty of a high misdemeanor and be removed from office; but this
3132 shall not prohibit a chancellor or circuit judge or a judge of the
3133 Court of Appeals from practicing in any of the courts for a period
3134 of six (6) months from the time such judges or chancellors assume
3135 office so far as to enable them to bring to a conclusion cases
3136 actually pending when they were appointed or elected in which such
3137 chancellor or judge was then employed, nor shall a judge of the
3138 Supreme Court be hindered from appearing in the courts of the
3139 United States in any case in which he was engaged when he was
3140 appointed or elected judge.

3141 **SECTION 62.** Section 9-1-35, Mississippi Code of 1972, is
3142 amended as follows:

3143 9-1-35. The clerk of the Supreme Court and of the Court of
3144 Appeals, at the expense of the state, and the clerk of every
3145 circuit, county and chancery court, at the expense of the county,
3146 shall keep a seal, with the style of the court around the margin
3147 and the image of an eagle in the center.

3148 **SECTION 63.** Section 9-1-36, Mississippi Code of 1972, is
3149 amended as follows:

3150 9-1-36. (1) Each circuit judge, county judge and chancellor
3151 shall receive an office operating allowance for the expenses of
3152 operating the office of such judge, including retaining a law
3153 clerk, legal research, stenographic help, stationery, stamps,
3154 furniture, office equipment, telephone, office rent and other
3155 items and expenditures necessary and incident to maintaining the
3156 office of judge. Such allowance shall be paid only to the extent
3157 of actual expenses incurred by any such judge as itemized and
3158 certified by such judge to the Supreme Court and then in an amount

3159 of Four Thousand Dollars (\$4,000.00) per annum; however, such
3160 judge may expend sums in excess thereof from the compensation
3161 otherwise provided for his office. No part of this expense or
3162 allowance shall be used to pay an official court reporter for
3163 services rendered to said court.

3164 (2) In addition to the amounts provided for in subsection
3165 (1), there is hereby created a separate office allowance fund for
3166 the purpose of providing support staff to judges. This fund shall
3167 be managed by the Administrative Office of Courts.

3168 (3) Each judge who desires to employ support staff * * *
3169 shall make application to the Administrative Office of Courts by
3170 submitting to the Administrative Office of Courts before July 1 of
3171 every year a proposed personnel plan setting forth what support
3172 staff is deemed necessary. Such plan may be submitted by a single
3173 judge or by any combination of judges desiring to share support
3174 staff. In the process of the preparation of the plan, the judges,
3175 at their request, may receive advice, suggestions, recommendations
3176 and other assistance from the Administrative Office of Courts.
3177 The Administrative Office of Courts must approve the positions,
3178 job descriptions and salaries before the positions may be filled.
3179 The Administrative Office of Courts shall not approve any plan
3180 which does not first require the expenditure of the funds in the
3181 support staff fund for compensation of any of the support staff
3182 before expenditure is authorized of county funds for that purpose.
3183 Upon approval by the Administrative Office of Courts, the judge or
3184 judges may appoint the employees to the position or positions, and
3185 each employee so appointed will work at the will and pleasure of
3186 the judge or judges who appointed him but will be employees of the
3187 Administrative Office of Courts. Upon approval by the
3188 Administrative Office of Courts, the appointment of any support
3189 staff shall be evidenced by the entry of an order on the minutes
3190 of the court. When support staff is appointed jointly by two (2)

3191 or more judges, the order setting forth any appointment shall be
3192 entered on the minutes of each participating court.

3193 (4) The Administrative Office of Courts shall develop and
3194 promulgate minimum qualifications for the certification of court
3195 administrators. Any court administrator appointed on or after
3196 October 1, 1996, shall be required to be certified by the
3197 Administrative Office of Courts.

3198 (5) Support staff shall receive compensation pursuant to
3199 personnel policies established by the Administrative Office of
3200 Courts; however, from and after July 1, 1994, the Administrative
3201 Office of Courts shall allocate from the support staff fund an
3202 amount of Forty Thousand Dollars (\$40,000.00) per fiscal year
3203 (July 1 through June 30) per judge for whom support staff is
3204 approved for the funding of support staff assigned to a judge or
3205 judges. Any employment pursuant to this subsection shall be
3206 subject to the provisions of Section 25-1-53.

3207 The Administrative Office of Courts may approve expenditure
3208 from the fund for additional equipment for support staff appointed
3209 pursuant to this section in any year in which the allocation per
3210 judge is sufficient to meet the equipment expense after provision
3211 for the compensation of the support staff.

3212 (6) For the purposes of this section, the following terms
3213 shall have the meaning ascribed herein unless the context clearly
3214 requires otherwise:

3215 (a) "Judges" means circuit judges, county judges and
3216 chancellors, or any combination thereof;

3217 (b) "Support staff" means court administrators, law
3218 clerks, legal research assistants or secretaries, or any
3219 combination thereof, but shall not mean school attendance
3220 officers;

3221 (c) "Compensation" means the gross salary plus all
3222 amounts paid for benefits or otherwise as a result of employment
3223 or as required by employment; provided, however, that only salary

3224 earned for services rendered shall be reported and credited for
3225 Public Employees' Retirement System purposes. Amounts paid for
3226 benefits or otherwise, including reimbursement for travel
3227 expenses, shall not be reported or credited for retirement
3228 purposes.

3229 (7) Title to all tangible property, excepting stamps,
3230 stationery and minor expendable office supplies, procured with
3231 funds authorized by this section, shall be and forever remain in
3232 the State of Mississippi to be used by the circuit judge or
3233 chancellor during the term of his office and thereafter by his
3234 successors.

3235 (8) Any circuit judge, county judge or chancellor who did
3236 not have a primary office provided by the county on March 1, 1988,
3237 shall be allowed an additional Four Thousand Dollars (\$4,000.00)
3238 per annum to defray the actual expenses incurred by such judge or
3239 chancellor in maintaining an office; however, any circuit judge,
3240 county judge or chancellor who had a primary office provided by
3241 the county on March 1, 1988, and who vacated the office space
3242 after such date for a legitimate reason, as determined by the
3243 Department of Finance and Administration, shall be allowed the
3244 additional office expense allowance provided under this
3245 subsection. The county in which a circuit judge, county judge or
3246 chancellor sits is authorized to provide funds from any available
3247 source to assist in defraying the actual expenses to maintain an
3248 office.

3249 (9) The Supreme Court, through the Administrative Office of
3250 Courts, shall submit to the Department of Finance and
3251 Administration the itemized and certified expenses for office
3252 operating allowances that are directed to the court pursuant to
3253 this section.

3254 (10) The Supreme Court, through the Administrative Office of
3255 Courts, shall have the power to adopt rules and regulations

3256 regarding the administration of the office operating allowance
3257 authorized pursuant to this section.

3258 (11) Any county without a county court whose chancery clerk
3259 provides clerical services for youth court purposes shall receive
3260 support funds as established by the Administrative Office of
3261 Courts on a match basis.

3262 **SECTION 64.** Section 9-13-17, Mississippi Code of 1972, is
3263 amended as follows:

3264 9-13-17. The circuit judge, chancellor, * * * or county
3265 judge may, by an order spread upon the minutes and made a part of
3266 the records of the court, appoint an additional court reporter for
3267 a term or part of a term whose duties, qualifications and
3268 compensation shall be the same as is now provided by law for
3269 official court reporters. The additional court reporter shall be
3270 subject to the control of the judge or chancellor, as is now
3271 provided by law for official court reporters, and the judge or
3272 chancellor shall have the additional power to terminate the
3273 appointment of such additional court reporter, whenever in his
3274 opinion the necessity for such an additional court reporter ceases
3275 to exist, by placing upon the minutes of the court an order to
3276 that effect. The regular court reporter shall not draw any
3277 compensation while the assistant court reporter alone is serving;
3278 however, in the event the assistant court reporter is serving
3279 because of the illness of the regular court reporter, the court
3280 may authorize payment of said assistant court reporter from the
3281 Administrative Office of Courts without diminution of the salary
3282 of the regular court reporter, for a period not to exceed
3283 forty-five (45) days in any one (1) calendar year. However, in
3284 any circuit, chancery, county or family court district within the
3285 State of Mississippi, if the judge or chancellor shall determine
3286 that in order to relieve the continuously crowded docket in such
3287 district, or for other good cause shown, the appointment of an
3288 additional court reporter is necessary for the proper

3289 administration of justice, he may, with the advice and consent of
3290 the board of supervisors if the court district is composed of a
3291 single county and with the advice and consent of at least one-half
3292 (1/2) of the boards of supervisors if the court district is
3293 composed of more than one (1) county, by an order spread upon the
3294 minutes and made a part of the records of the court, appoint an
3295 additional court reporter. The additional court reporter shall
3296 serve at the will and pleasure of the judge or chancellor, may be
3297 a resident of any county of the state, and shall be paid a salary
3298 designated by the judge or chancellor not to exceed the salary
3299 authorized by Section 9-13-19. The salary of the additional court
3300 reporter shall be paid by the Administrative Office of Courts, as
3301 provided in Section 9-13-19; and mileage shall be paid to the
3302 additional court reporter by the county as provided in the same
3303 section. The office of such additional court reporter appointed
3304 under this section shall not be abolished or compensation reduced
3305 during the term of office of the appointing judge or chancellor
3306 without the consent and approval of the appointing judge or
3307 chancellor.

3308 **SECTION 65.** Section 9-13-61, Mississippi Code of 1972, is
3309 amended as follows:

3310 9-13-61. There shall be an official court reporter for each
3311 county * * * judge in the State of Mississippi, to be appointed by
3312 such judge, for the purpose of performing the necessary and
3313 required stenographic work of the court or division thereof over
3314 which the appointing judge is presiding, said work to be performed
3315 under the direction of such judge and in the same manner and to
3316 the same effect as is provided in the chapter on court reporting.

3317 * * * The reporters of the courts shall receive a salary
3318 * * * equal to that of the reporters of the circuit and chancery
3319 courts * * * to be paid * * * by the Administrative Office of
3320 Courts.

3321 * * *

3322 **SECTION 66.** Section 43-21-107, Mississippi Code of 1972, is
3323 amended as follows:

3324 43-21-107. (1) A youth court division is * * * created as a
3325 division * * * of each county now or hereafter having a county
3326 court, and the county judge shall be the judge of the youth court,
3327 unless another judge is named by the county judge as provided by
3328 this chapter.

3329 (2) A youth court division is * * * created as a division of
3330 the chancery court of each county in which no county court is
3331 maintained and any chancellor within a chancery court judge of the
3332 youth court of that county within such chancery court district
3333 unless another judge is named by the senior chancellor of the
3334 county or chancery court district as provided by this chapter.

3335 * * *

3336 **SECTION 67.** Section 43-21-111, Mississippi Code of 1972, is
3337 amended as follows:

3338 43-21-111. (1) In any county not having a county court
3339 * * * judge may appoint as provided in Section 43-21-123 regular
3340 or special referees who shall be attorneys at law and members of
3341 the bar in good standing to act in cases concerning children
3342 within the jurisdiction of the youth court, and a regular referee
3343 shall hold office until removed by the judge. The requirement
3344 that regular or special referees appointed pursuant to this
3345 subsection be attorneys shall apply only to regular or special
3346 referees who were not first appointed regular or special referees
3347 prior to July 1, 1991.

3348 (2) Any referee appointed pursuant to subsection (1) of this
3349 section shall be required to receive judicial training approved by
3350 the Mississippi Judicial College and shall be required to receive
3351 regular annual continuing education in the field of juvenile
3352 justice. The amount of judicial training and annual continuing
3353 education which shall be satisfactory to fulfill the requirements
3354 of this section shall conform with the amount prescribed by the

3355 Rules and Regulations for Mandatory Continuing Judicial Education
3356 promulgated by the Supreme Court. The Administrative Office of
3357 Courts shall maintain a roll of referees appointed under this
3358 section, shall enforce the provisions of this subsection and shall
3359 maintain records on all such referees regarding such training.
3360 Should a referee miss two (2) consecutive training sessions
3361 sponsored or approved by the Mississippi Judicial College as
3362 required by this subsection or fail to attend one (1) such
3363 training session within six (6) months of their initial
3364 appointment as a referee, the referee shall be disqualified to
3365 serve and be immediately removed as a referee and another member
3366 of the bar shall be appointed as provided in this section. The
3367 Administrative Office of Courts shall enforce the provisions of
3368 this subsection and shall maintain records on all such referees
3369 regarding such training. Should a referee/part-time judge miss
3370 two (2) consecutive training sessions sponsored by the Mississippi
3371 Judicial College as required by this subsection, the
3372 referee/part-time judge shall be immediately removed and another
3373 member of the bar shall be appointed as provided in this section.

3374 (3) The judge may direct that hearings in any case or class
3375 of cases be conducted in the first instance by the referee. The
3376 judge may also delegate his own administrative responsibilities to
3377 the referee.

3378 (4) All hearings authorized to be heard by a referee shall
3379 proceed in the same manner as hearings before the youth court
3380 judge. A referee shall possess all powers and perform all the
3381 duties of the youth court judge in the hearings authorized to be
3382 heard by the referee.

3383 (5) An order entered by the referee shall be mailed
3384 immediately to all parties and their counsel. A rehearing by the
3385 judge shall be allowed if any party files a written motion for a
3386 rehearing or on the court's own motion within three (3) days after
3387 notice of referee's order. The youth court may enlarge the time

3388 for filing a motion for a rehearing for good cause shown. Any
3389 rehearing shall be upon the record of the hearing before the
3390 referee, but additional evidence may be admitted in the discretion
3391 of the judge. A motion for a rehearing shall not act as a
3392 supersedeas of the referee's order, unless the judge shall so
3393 order.

3394 (6) The salary for the referee shall be based on a formula
3395 established by the Administrative Office of Courts and shall be
3396 paid * * * out of the State General Fund and county funds as
3397 determined by the Administrative Office of Courts; provided,
3398 however, no referee shall have his salary reduced by such formula.

3399 (7) Upon request of the boards of supervisors of two (2) or
3400 more counties, the judge of the chancery court may appoint a
3401 suitable person as referee to two (2) or more counties within his
3402 or her district * * *.

3403 **SECTION 68.** Section 43-21-117, Mississippi Code of 1972, is
3404 amended as follows:

3405 43-21-117. (1) The youth court prosecutor shall represent
3406 the petitioner in all proceedings in the youth court.

3407 (2) The county prosecuting attorney shall serve as the youth
3408 court prosecutor; however, if funds are available pursuant to
3409 Section 43-21-123, the court may designate, as provided in
3410 subsection (3) of this section, a prosecutor or prosecutors in
3411 lieu of or in addition to the county prosecuting attorney. * * *

3412 (3) The judge may designate as provided in Section 43-21-123
3413 some suitable attorney or attorneys to serve as youth court
3414 prosecutor or prosecutors in lieu of or in conjunction with the
3415 youth court prosecutor provided in subsection (2) of this section.
3416 The designated youth court prosecutor or prosecutors shall be paid
3417 a fee or salary fixed on order of the judge as provided in Section
3418 43-21-123 and shall be paid by the county out of any available
3419 funds budgeted for the youth court by the board of
3420 supervisors * * *.

3421 (4) All youth court prosecutors and county prosecuting
3422 attorneys who serve as youth court prosecutors shall be required
3423 to receive juvenile justice training approved by the Mississippi
3424 Attorney General's office and regular annual continuing education
3425 in the field of juvenile justice. The Mississippi Attorney
3426 General's office shall determine the amount of juvenile justice
3427 training and annual continuing education which shall be
3428 satisfactory to fulfill the requirements of this subsection. The
3429 Administrative Office of Courts shall maintain a roll of youth
3430 court prosecutors, shall enforce the provisions of this subsection
3431 and shall maintain records on all such youth court prosecutors
3432 regarding such training. Should a youth court prosecutor miss two
3433 (2) consecutive training sessions sponsored by the Mississippi
3434 Attorney General's office as required by this subsection or fail
3435 to attend one (1) such training session within six (6) months of
3436 their designation as youth court prosecutor, the youth court
3437 prosecutor shall be disqualified to serve and be immediately
3438 removed from the office of youth court prosecutor and another
3439 youth court prosecutor shall be designated.

3440 **SECTION 69.** Section 43-21-123, Mississippi Code of 1972, is
3441 amended as follows:

3442 43-21-123. * * * State funds and/or other monies
3443 administered by the Administrative Office of Courts shall
3444 adequately provide funds for the operation of the youth court
3445 division of the chancery court in conjunction with the regular
3446 chancery court budget, or the county or family courts where said
3447 courts are constituted. In preparation for said funding, on an
3448 annual basis at the time requested, the youth court judge or
3449 administrator shall prepare and submit to the Administrative
3450 Office of Courts, an annual budget which will identify the number,
3451 staff position, title and amount of annual or monthly compensation
3452 of each position as well as provide for other expenditures
3453 necessary to the functioning and operation of the youth court.

3454 When the budget of the youth court or youth court judge is
3455 approved by the Administrative Office of Courts, then the youth
3456 court or youth court judge may employ such persons as provided in
3457 the budget from time to time.

3458 The Administrative Office of Courts is authorized to
3459 reimburse the youth court judges and other youth court employees
3460 or personnel for reasonable travel and expenses incurred in the
3461 performance of their duties and in attending educational meetings
3462 offering professional training to such persons as budgeted.

3463 **SECTION 70.** The Governor, on behalf of this state, may
3464 execute a compact in substantially the following form, and the
3465 Legislature signifies in advance its approval and ratification of
3466 the compact:

3467 **THE INTERSTATE COMPACT FOR JUVENILES**

3468 **ARTICLE I**

3469 **PURPOSE**

3470 The compacting states to this Interstate Compact recognize
3471 that each state is responsible for the proper supervision or
3472 return of juveniles, delinquents and status offenders who are on
3473 probation or parole and who have absconded, escaped or run away
3474 from supervision and control and in so doing have endangered their
3475 own safety and the safety of others. The compacting states also
3476 recognize that each state is responsible for the safe return of
3477 juveniles who have run away from home and in doing so have left
3478 their state of residence. The compacting states also recognize
3479 that Congress, be enacting the Crime Control Act, 4 USCS Section
3480 112 (1965), has authorized and encouraged compacts for cooperative
3481 efforts and mutual assistance in the prevention of crime.

3482 It is the purpose of this compact, through means of joint and
3483 cooperative action among the compacting states to;

3484 (a) Ensure that the adjudicated juveniles and status
3485 offenders subject to this compact are provided adequate

3486 supervision and services in the receiving state as ordered by the
3487 adjudicating judge or parole authority in the sending state;

3488 (b) Ensure that the public safety interests of the
3489 citizens, including the victims of juvenile offenders, in both the
3490 sending and receiving states are adequately protected;

3491 (c) Return juveniles who have run away, absconded or
3492 escaped from supervision or control or have been accused of an
3493 offense to the state requesting their return;

3494 (d) Make contracts for the cooperative
3495 institutionalization in public facilities in member states for
3496 delinquent youth needing special services;

3497 (e) Provide for the effective tracking and supervision
3498 of juveniles;

3499 (f) Equitably allocate the costs, benefits and
3500 obligations of the compacting states;

3501 (g) Establish procedures to manage the movement between
3502 states of juvenile offenders released to the community under the
3503 jurisdiction of courts, juvenile departments, or any other
3504 criminal or juvenile justice agency that has jurisdiction over
3505 juvenile offenders;

3506 (h) Insure immediate notice to jurisdictions where
3507 defined offenders are authorized to travel or to relocate across
3508 state lines;

3509 (i) Establish procedures to resolve pending charges
3510 (detainers) against juvenile offenders before transfer or release
3511 to the community under the terms of this compact;

3512 (j) Establish a system of uniform data collection on
3513 information pertaining to juveniles subject to this compact that
3514 allows access by authorized juvenile justice and criminal justice
3515 officials, and regular reporting of compact activities to heads of
3516 state executive, judicial, and legislative branches and juvenile
3517 and criminal justice administrators;

3551 (c) "Compacting State" means any state that has enacted
3552 the enabling legislation for this compact.

3553 (d) "Commissioner" means the voting representative of
3554 each compacting state appointed pursuant to Article III of this
3555 compact.

3556 (e) "Court" means any court having jurisdiction over
3557 delinquent, neglected or dependent children.

3558 (f) "Deputy Compact Administrator" means the
3559 individual, if any, in each compacting state appointed to act on
3560 behalf of a compact administrator under the terms of this compact
3561 responsible for the administration and management of the state's
3562 supervision and transfer of juveniles subject to the terms of this
3563 compact, the rules adopted by the Interstate Commission and
3564 policies adopted by the State Council under this compact.

3565 (g) "interstate Commission" means the Interstate
3566 Commission for Juveniles created by Article III of this compact.

3567 (h) "Juvenile" means any person defined as a juvenile
3568 in any member state or by the rules of the Interstate Commission,
3569 including:

3570 (i) Accused Delinquent, which is a person charged
3571 with an offense that, if committed by an adult, would be a
3572 criminal offense;

3573 (ii) Adjudicated Delinquent, which is a person
3574 found to have committed an offense that, if committed by an adult,
3575 would be a criminal offense;

3576 (iii) Accused Status Offender, which is a person
3577 charged with an offense that would not be a criminal offense if
3578 committed by an adult;

3579 (iv) Adjudicated Status Offender, which is a
3580 person found to have committed an offense that would not be a
3581 criminal offense if committed by an adult; and

3582 (v) Nonoffender which is, a person in need of
3583 supervision who has not been accused or adjudicated a status
3584 offender or delinquent.

3585 (i) "Noncompacting state" means any state that has not
3586 enacted the enabling legislation for this compact.

3587 (j) "Probation or Parole" means any kind of supervision
3588 or conditional release of juveniles authorized under the laws of
3589 the compacting states.

3590 (k) "Rules" means a written statement by the Interstate
3591 Commission promulgated under Article VI of this compact that is of
3592 general applicability, implements, interprets or prescribes a
3593 policy or provision of the compact, or an organizational,
3594 procedural, or practice requirement of the Commission, and has the
3595 force and effect of statutory law in a compacting state, and
3596 includes the amendment, repeal or suspension of an existing rule.

3597 (l) "State" means a state of the United States, the
3598 District of Columbia (or its designee), the Commonwealth of Puerto
3599 Rico, the United States Virgin Islands, Guam, American Samoa, and
3600 the Northern Marianas Islands.

3601 **ARTICLE III**

3602 **INTERSTATE COMMISSION FOR JUVENILES**

3603 (1) The compacting states create the "Interstate Commission
3604 for Juveniles." The commission shall be a body corporate and
3605 joint agency of the compacting states. The commission shall have
3606 all the responsibilities, powers and duties set forth in this
3607 compact, and such additional powers as may be conferred upon it by
3608 subsequent action of the respective legislatures of the compacting
3609 states in accordance with the terms of this compact.

3610 (2) The Interstate commission shall consist of commissioners
3611 appointed by the appropriate appointing authority in each state
3612 pursuant to the rules and requirements of each compacting state
3613 and in consultation with the State Council for Interstate Juvenile
3614 Supervision created under this compact. The commissioner shall be

3615 the compact administrator, deputy compact administrator or
3616 designee from that state who shall serve on the Interstate
3617 Commission in such capacity under the applicable law of the
3618 compacting state.

3619 (3) In addition to the commissioners who are the voting
3620 representatives of each state, the Interstate Commission shall
3621 include individuals who are not commissioners, but who are members
3622 of interested organizations. Those noncommissioner members must
3623 include a member of the national organizations of governors,
3624 legislators, state chief justices, attorneys general, Interstate
3625 Compact for Adult Offender for Adult Offender Supervision,
3626 Interstate Compact for the Placement of Children, juvenile justice
3627 and juvenile corrections officials and crime victims. All
3628 noncommissioner members of the Interstate Commission shall be
3629 exofficio nonvoting members. The Interstate Commission may
3630 provide in its bylaws for additional exofficio nonvoting members,
3631 including members of other national organizations, in such numbers
3632 as determined by the commission.

3633 (4) Each compacting state represented at any meeting of the
3634 commission is entitled to one (1) vote. A majority of the
3635 compacting states shall constitute a quorum for the transaction of
3636 business, unless a larger quorum is required by the bylaws of the
3637 Interstate Commission.

3638 (5) The commission shall meet at least once each calendar
3639 year. The chairperson may call additional meetings and, upon the
3640 request of a simple majority of the compacting states, shall call
3641 additional meetings. Public notice shall be given of all meetings
3642 and meetings shall be open to the public.

3643 (6) The Interstate Commission shall establish an executive
3644 committee, which shall include commission officers, members and
3645 others as determined by the bylaws. The executive committee shall
3646 have the power to act on behalf of the Interstate Commission
3647 during periods when the Interstate Commission is not in session,

3648 with the exception of rulemaking and/or amendment to the compact.
3649 The executive committee shall oversee the day-to -day activities
3650 of the administration of the compact managed by an executive
3651 director and Interstate Commission staff; administers enforcement
3652 and compliance with the provisions of the compact, its bylaws and
3653 rules and performs such other duties as directed by the Interstate
3654 Commission or set forth in the bylaws.

3655 (7) Each member of the Interstate Commission shall have the
3656 right and power to cast a vote to which that compacting state is
3657 entitled and to participate in the business and affairs of the
3658 Interstate Commission. A member shall vote in person and shall
3659 not delegate a vote to another compacting state. However, a
3660 commissioner, in consultation with the state council, shall
3661 appoint another authorized representative, in the absence of the
3662 commissioner from that state, to cast a vote on behalf of the
3663 compacting state at a specified meeting. The bylaws may provide
3664 for members' participation in meetings by telephone or other means
3665 of telecommunication or electronic communication.

3666 (8) The Interstate Commission's bylaws shall establish
3667 conditions and procedures under which the Interstate Commission
3668 shall make its information and official records available to the
3669 public for inspection or copying. The Interstate Commission may
3670 exempt from disclosure any information or official records to the
3671 extent they would adversely affect personal privacy rights or
3672 proprietary interests.

3673 (9) Public notice shall be given of all meetings and all
3674 meeting shall be open to the public, except as set forth in the
3675 Rules or as otherwise provided in the compact. The Interstate
3676 Commission and any of its committees may close a meeting to the
3677 public where it determines by two-thirds (2/3) vote that an open
3678 meeting would be likely to:

3679 (a) Relate solely to the Interstate Commission's
3680 internal personnel practice and procedures;

3681 (b) Disclose matters specifically exempted from
3682 disclosure by statute;

3683 (c) Disclose trade secrets or commercial or financial
3684 information that is privileged or confidential;

3685 (d) Involve accusing any person of a crime, or formally
3686 censuring any person;

3687 (e) Disclose information of a personal nature where
3688 disclosure would constitute a clearly unwarranted invasion of
3689 personal privacy;

3690 (f) Disclose investigative records compiled for law
3691 enforcement purposes;

3692 (g) Disclose information contained in or related to
3693 examination, operating or condition reports prepared by, or on
3694 behalf of or for the use of, the Interstate Commission with
3695 respect to a regulated person or entity for the purpose of
3696 regulation or supervision of the person or entity;

3697 (h) Disclose information, the premature disclosure of
3698 which would significantly endanger the stability of a regulated
3699 person or entity; or

3700 (i) Specifically relate to the Interstate Commission's
3701 issuance of a subpoena, or its participation in a civil action or
3702 other legal proceeding.

3703 (10) For every meeting closed under this provision, the
3704 Interstate Commission's legal counsel shall publicly certify that,
3705 in the legal counsel's opinion, the meeting may be closed to the
3706 public, and shall reference each relevant exemptive provision.
3707 The Interstate Commission shall keep minutes that shall fully and
3708 clearly describe all matters discussed in any meeting and shall
3709 provide a full and accurate summary of any actions taken, and the
3710 reasons therefor, including a description of each of the views
3711 expressed on any item and the record of any roll call vote
3712 (reflected in the vote of each member on the question). All

3713 documents considered in connection with any action shall be
3714 identified in the minutes.

3715 (11) The Interstate Commission shall collect standardized
3716 data concerning the interstate movement of juveniles as directed
3717 through its rules, which shall specify the data to be collected,
3718 the means of collection, data exchange and reporting requirements.
3719 Those methods of data collection, exchange and reporting shall,
3720 insofar as is reasonably possible, conform to up-to-date
3721 technology and coordinate its information functions with the
3722 appropriate repository of records.

3723 **ARTICLE IV**

3724 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

3725 The commission shall have the following powers and duties:

3726 (a) To provide for dispute resolution among compacting
3727 state.

3728 (b) To promulgate rules to effect the purposes and
3729 obligations as enumerated in this compact, which shall have the
3730 force and effect of statutory law and shall be binding in the
3731 compacting states to the extent and in the manner provided in this
3732 compact.

3733 (c) To oversee, supervise and coordinate the interstate
3734 movement of juveniles subject to the terms of this compact and any
3735 bylaws adopted and rules promulgated by the Interstate Commission.

3736 (d) To enforce compliance with the compact provision,
3737 the rules promulgated by the Interstate commission, and the
3738 bylaws, using all necessary and proper means, including but not
3739 limited to the use of judicial process.

3740 (e) To establish and maintain offices, which shall be
3741 located within one or more of the compacting states.

3742 (f) To purchase and maintain insurance and bonds.

3743 (g) To borrow, accept, hire or contract for services of
3744 personnel.

3745 (h) To establish and appoint committees and hire staff
3746 that it deems necessary for the carrying out of its functions
3747 including, but not limited to, an executive committee as required
3748 by Article III, which shall have the power to act on behalf of the
3749 Interstate Commission in carrying out its powers and duties under
3750 this compact.

3751 (i) To elect or appoint officers, attorneys, employees,
3752 agents or consultants, and to fix their compensation, define their
3753 duties and determine their qualifications; and to establish
3754 the Interstate Commission's personnel policies and programs
3755 relating to, inter alia, conflicts of interest, rates of
3756 compensation and qualifications of personnel.

3757 (j) To accept any and all donations and grants of
3758 money, equipment, supplies, materials and services, and to
3759 receive, utilize and dispose of it.

3760 (k) To lease, purchase, accept contributions or
3761 donations of or otherwise to own, hold, improve or use any
3762 property, real, personal or mixed.

3763 (l) To sell, convey, mortgage, pledge, lease, exchange,
3764 abandon or otherwise dispose of any property, real, personal or
3765 mixed.

3766 (m) To establish a budget and make expenditures and
3767 levy dues as provided in Article VIII of this compact.

3768 (n) To sue and be sued.

3769 (o) To adopt a seal and bylaws governing the management
3770 and operation of the Interstate Commission.

3771 (p) To perform such functions as may be necessary or
3772 appropriate to achieve the purposes of this compact.

3773 (q) To report annually to the legislatures, governors,
3774 judiciary, and state councils of the compacting states concerning
3775 the activities of the Interstate Commission during the preceding
3776 year. Those reports also shall include any recommendations that
3777 may have been adopted by the Interstate Commission.

3778 (r) To coordinate education, training and public
3779 awareness regarding the interstate movement of juveniles for
3780 officials involved in that activity.

3781 (s) To establish uniform standards of the reporting,
3782 collecting and exchanging of data.

3783 (t) To maintain its corporate books and records in
3784 accordance with the bylaws.

3785 **ARTICLE V**

3786 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

3787 (1) **Bylaws.** The Interstate Commission shall, by a majority
3788 of the members present and voting, within twelve (12) months after
3789 the first Interstate Commission meeting, adopt bylaws to govern
3790 its conduct as may be necessary or appropriate to carry out the
3791 purposes of the compact including, but not limited to:

3792 (a) Establishing the fiscal year of the Interstate
3793 Commission;

3794 (b) Establishing an executive committee and such other
3795 committees as may be necessary;

3796 (c) Providing for the establishment of committees
3797 governing any general or specific delegation of any authority or
3798 function of the Interstate Commission;

3799 (d) Providing reasonable procedures for calling and
3800 conducting meetings of the Interstate Commission, and ensuring
3801 reasonable notice of each such meeting;

3802 (e) Establishing the titles and responsibilities of the
3803 officers of the Interstate Commission;

3804 (f) Providing a mechanism for concluding the operations
3805 of the Interstate Commission and the return of any surplus funds
3806 that may exist upon the termination of the compact after the
3807 payment and/or reserving of all of its debts and obligations;

3808 (g) Providing "start-up" rules for initial
3809 administration of the compact; and

3810 (h) Establishing standards and procedures for
3811 compliance and technical assistance in carrying out the compact.

3812 (2) **Officers and Staff.** (a) The Interstate Commission
3813 shall, by a majority of the members, elect annually from among its
3814 members a chairperson and a vice chairperson each of whom shall
3815 have such authority and duties as may be specified in the bylaws.
3816 The chairperson or, in the chairperson's absence or disability,
3817 the vice chairperson shall preside at all meetings of the
3818 Interstate Commission. The officers so elected shall serve
3819 without compensation or remuneration from the Interstate
3820 Commission; however, subject to the availability of budgeted
3821 funds, the officers shall be reimbursed for any ordinary and
3822 necessary costs and expenses incurred by them in the performance
3823 of their duties and responsibilities as officers of the Interstate
3824 Commission.

3825 (b) The Interstate Commission shall, through its
3826 executive committee, appoint or retain an executive director for
3827 such period, upon such terms and conditions and for such
3828 compensation as the Interstate Commission may deem appropriate.
3829 The executive director shall serve as secretary to the Interstate
3830 Commission, but shall not be a member and shall hire and supervise
3831 such other staff as may be authorized by the Interstate
3832 Commission.

3833 (3) **Qualified Immunity, Defense and Indemnification.** (a)
3834 The Commission's executive director and employees shall be immune
3835 from suit and liability, either personally or in their official
3836 capacity, for any claim for damage to or loss of property,
3837 personal injury or other civil liability caused or arising out of
3838 or relating to any actual or alleged act, error, or omission that
3839 occurred, or that the person had a reasonable basis for believing
3840 occurred within the scope of Commission employment, duties or
3841 responsibilities; however, any such person shall not be protected
3842 from suit or liability for any damage, loss, injury or liability

3843 caused by the intentional or willful and wanton misconduct of any
3844 such person.

3845 (b) The liability of any commissioner, or the employee
3846 of agent of a commissioner, acting within the scope of the
3847 person's employment or duties for acts, errors or omissions
3848 occurring within the person's state may not exceed the limits of
3849 liability set forth under the Constitution and laws of that state
3850 for state officials, employees and agents. Nothing in this
3851 subsection shall be construed to protect any such person from suit
3852 or liability for any damage, loss, injury or liability caused by
3853 the intentional or willful and wanton misconduct of any such
3854 person.

3855 (c) The Interstate Commission shall defend the
3856 executive director or the employees or representatives of the
3857 Interstate Commission and, subject to the approval of the Attorney
3858 General of the state represented by any commissioner of a
3859 compacting state, shall defend the commissioner or the
3860 commissioner's representatives or employees in any civil action
3861 seeking to impose liability arising out of any actual or alleged
3862 act, error or omission that occurred within the scope of
3863 Interstate Commission employment, duties or responsibilities, or
3864 that the defendant has a reasonable basis for believing occurred
3865 within the scope of Interstate Commission employment, duties or
3866 responsibilities, provided that the actual or alleged act, error
3867 or omission did not result from intentional or willful and wanton
3868 misconduct on the part of the person.

3869 (d) The Interstate Commission shall indemnify and hold
3870 the commissioner of a compacting state, or the commissioner's
3871 representatives or employees or the Interstate Commission's
3872 representatives or employees, harmless in the amount of any
3873 settlement or judgment obtained against those persons arising out
3874 of any actual or alleged act, error or omission that occurred
3875 within the scope of Interstate Commission employment, duties or

3876 responsibilities, or that those persons had a reasonable basis for
3877 believing occurred within the scope of Interstate Commission
3878 employment, duties or responsibilities, provide that the actual or
3879 alleged act, error or omission did not result from intentional or
3880 willful and wanton misconduct on the part of such persons.

3881 **ARTICLE VI**

3882 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

3883 (1) The Interstate Commission shall promulgate and publish
3884 rules in order to effectively and efficiently achieve the purposes
3885 of the compact.

3886 (2) Rule making shall occur using the criteria set forth in
3887 this article and the bylaws and rules adopted under this article.
3888 That rulemaking shall substantially conform to the principles of
3889 the "Model State Administrative Procedures Act," 1981 Act, Uniform
3890 Laws Annotated, Vol. 15, p.1 (2000), or such other administrative
3891 procedures act, as the Interstate Commission deems appropriate
3892 consistent with due process requirements under the United States
3893 Constitution as now or hereafter interpreted by the United States
3894 Supreme Court. All rules and amendments shall become binding as
3895 of the date specified, as published with the final version of the
3896 rule as approved by the Commission.

3897 (3) When promulgating a rule, the Interstate Commission
3898 shall, at a minimum:

3899 (a) Publish the proposed rule's entire text stating the
3900 reason(s) for that proposed rule;

3901 (b) Allow and invite any and all persons to submit
3902 written data, facts, opinions, and arguments, which information
3903 shall be added to the record, and be made publicly available;

3904 (c) Provide an opportunity for an informal hearing if
3905 petitioned by ten (10) or more persons; and

3906 (d) Promulgate a final rule and its effective date, if
3907 appropriate, based on input from state or local officials, or
3908 interested parties.

3909 (4) Allow not later than sixty (60) days after a rule is
3910 promulgated, any interested person to file a petition in the
3911 United States District Court for the District of Columbia or in
3912 the Federal District Court where the Interstate Commission's
3913 principal office is located for judicial review of the rule. If
3914 the court finds that the Interstate Commission's action is not
3915 supported by substantial evidence in the rulemaking record, the
3916 court shall hold the rule unlawful and set it aside. For purposes
3917 of this subsection, evidence is substantial if it would be
3918 considered substantial evidence under the Model State
3919 Administrative Procedures Act.

3920 (5) If a majority of the legislatures of the compacting
3921 states rejects a rule, those states may, by enactment of a statute
3922 or resolution in the same manner used to adopt the compact, cause
3923 that the rule shall have no further force and effect in any
3924 compacting state.

3925 (6) The existing rules governing the operation of the
3926 Interstate Compact on Juveniles superceded by this act shall be
3927 null and void twelve (12) months after the first meeting of the
3928 Interstate Commission created under this compact.

3929 (7) Upon determination by the Interstate Commission that a
3930 state of emergency exists, it may promulgate an emergency rule
3931 that shall become effective immediately upon adoption, provided
3932 that the usual rulemaking procedures provided under this article
3933 retroactively applied to the rule as soon as reasonable possible,
3934 but no later than ninety (90) days after the effective date of the
3935 emergency rule.

3936 ARTICLE VII

3937 OVERSIGHT, ENFORCEMENT AND DISPUTES RESOLUTION BY THE INTERSTATE 3938 COMMISSION

3939 (1) **Oversight.** (a) The Interstate Commission shall oversee
3940 the administration and operations of the interstate movement of
3941 juveniles subject to this compact in the compacting states and

3942 shall monitor those activities being administered in noncompacting
3943 states that may significantly affect compacting states.

3944 (b) The courts and executive agencies in each
3945 compacting state shall enforce this compact and shall take all
3946 actions necessary and appropriate to effectuate the compact's
3947 purposes and intent. The provisions of this compact and the rules
3948 promulgated under this compact shall be received by all the
3949 judges, public officers, commissions and departments of the state
3950 government as evidence of the authorized statute and
3951 administrative rules. All courts shall take judicial notice of
3952 the compact and the rules. In any judicial or administrative
3953 proceeding in a compacting state pertaining to the subject matter
3954 of this compact that may affect the powers, responsibilities or
3955 actions of the Interstate Commission, it shall be entitled to
3956 receive all service of process in any such proceeding, and shall
3957 have standing to intervene in the proceeding for all purposes.

3958 (2) **Dispute Resolution.** (a) The compacting states shall
3959 report to the Interstate Commission on all issues and activities
3960 necessary for the administration of the compact, as well as issues
3961 and activities pertaining to compliance with the provisions of the
3962 compact and its bylaws and rules.

3963 (b) Then Interstate Commission shall attempt, upon the
3964 request of a compacting state, to resolve any disputes or other
3965 issues that are subject to the compact and that may arise among
3966 compacting states and between compacting and noncompacting states.
3967 The commission shall promulgate a rule providing for both
3968 mediation and binding dispute resolution for disputes among the
3969 compacting states.

3970 (c) The Interstate Commission, in the reasonable
3971 exercise of its discretion, shall enforce the provisions and rules
3972 of this compact using any or all means set forth in Article XI of
3973 this compact.

3974 **ARTICLE VIII**

3975

FINANCE

3976 (1) The Interstate Commission shall pay or provide for the
3977 payment of the reasonable expenses of its establishment,
3978 organization and ongoing activities.

3979 (2) The Interstate Commission shall levy on and collect an
3980 annual assessment from each compacting state to cover the cost of
3981 the internal operations and activities of the Interstate
3982 Commission and its staff, which must be in a total amount
3983 sufficient to cover the Interstate Commission's annual budget as
3984 approved each year. The aggregate annual assessment amount shall
3985 be allocated based upon a formula to be determined by the
3986 Interstate Commission, taking into consideration the population of
3987 each compacting state and the volume of interstate movement of
3988 juveniles in each compacting state, and shall promulgate a rule
3989 binding upon all compacting states which governs the assessment.

3990 (3) The Interstate Commission shall not incur any
3991 obligations of any kind before securing the funds adequate to meet
3992 the same; nor shall the Interstate Commission pledge the credit of
3993 any of the compacting states, except by and with the authority of
3994 the compacting state.

3995 (4) The Interstate Commission shall keep accurate accounts
3996 of all receipts and disbursements. The receipts and disbursements
3997 of the Interstate Commission shall be subject to the audit and
3998 accounting procedures established under its bylaws. However, all
3999 receipts and disbursements of funds handled by the Interstate
4000 Commission shall be audited yearly by a certified or licensed
4001 public accountant and the report of the audit shall be included in
4002 and become part of the annual report of the Interstate Commission.

4003

ARTICLE IX

4004

THE STATE COUNCIL

4005 Each member state shall create a State Council for Interstate
4006 Juvenile Supervision. While each state may determine the
4007 membership of its own state council, its membership must include

4008 at least one (1) representative from the legislative, judicial,
4009 and executive branches of government, victims groups, and the
4010 compact administrator or designee. Each compacting state retains
4011 the right to determine the qualifications of the compact
4012 administrator or deputy compact administrator. Each state council
4013 will advise and may exercise oversight and advocacy concerning the
4014 state's participation in Interstate Commission activities and
4015 other duties as may be determined by that state, including, but
4016 not limited to, development of policy concerning operations and
4017 procedures of the compact within that state.

4018 **ARTICLE X**

4019 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

4020 (1) Any state, the District of Columbia (or its designee),
4021 the Commonwealth of Puerto Rico, the United States Virgin Islands,
4022 Guam, American Samoa and the Northern Marianas Islands as defined
4023 in Article II of this compact is eligible to become a compacting
4024 state.

4025 (2) The compact shall become effective and binding upon
4026 legislative enactment of the compact into law by no less than
4027 thirty-five (35) of the states. The initial effective date shall
4028 be the later of July 1, 2005 or upon enactment into law by the
4029 thirty-fifth jurisdiction. Thereafter, it shall become effective
4030 and binding as to any other compacting state upon enactment of the
4031 compact into law by that state. The governors of nonmember states
4032 or their designees shall be invited to participate in the
4033 activities of the Interstate Commission on a nonvoting basis
4034 before adoption of the compact by all states and territories of
4035 the United States.

4036 (3) The Interstate Commission may propose amendments to the
4037 compact for enactment by the compacting states. No amendment
4038 shall become effective and binding upon the Interstate Commission
4039 and the compacting states unless and until it is enacted into law
4040 by unanimous consent of the compacting states.

4041 **ARTICLE XI**

4042 **WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT**

4043 (1) **Withdrawal.** (a) Once effective, the compact shall
4044 continue in force and remain binding upon each and every
4045 compacting state; however, a compacting state may withdraw from
4046 the compact by specifically repealing the statute that enacted the
4047 compact into law.

4048 (b) The effective date of withdrawal is the effective
4049 date of the repeal.

4050 (c) The withdrawing state shall immediately notify the
4051 chairperson of the Interstate Commission in writing upon the
4052 introduction of legislation repealing this compact in the
4053 withdrawing state. The Interstate Commission shall notify the
4054 other compacting states of the withdrawing state's intent to
4055 withdraw within sixty (60) days of its receipt thereof.

4056 (d) The withdrawing state is responsible for all
4057 assessments, obligations and liabilities incurred through the
4058 effective date of withdrawal, including any obligations, the
4059 performance of which extend beyond the effective date of
4060 withdrawal.

4061 (e) Reinstatement following withdrawal of any
4062 compacting state shall occur upon the withdrawing state reenacting
4063 the compact or upon such later date as determined by the
4064 Interstate Commission.

4065 (2) **Technical Assistance, Fines, Suspension, Termination and**
4066 **Default.** (a) If the Interstate Commission determines that any
4067 compacting state has at any time defaulted in the performance of
4068 any of its obligations or responsibilities under this compact, or
4069 the bylaws or duly promulgated rules, the Interstate Commission
4070 may impose any or all the following penalties.

4071 (i) Remedial training and technical assistance as
4072 directed by the Interstate Commission;

4073 (ii) Alternative Dispute Resolution;

4074 (iii) Fines, fees and costs in such amounts as are
4075 deemed to be reasonable as fixed by the Interstate Commission; and

4076 (iv) Suspension or termination of membership in
4077 the compact, which shall be imposed only after all other
4078 reasonable means of securing compliance under the bylaws and rules
4079 have been exhausted and the Interstate Commission has therefore
4080 determined that the offending state is in default. Immediate
4081 notice of suspension shall be given by the Interstate Commission
4082 to the governor, the chief justice or the chief judicial officer
4083 of the state, the majority and minority leaders of the defaulting
4084 state's legislature and the state council. The grounds for
4085 default include, but are not limited to, failure of a compacting
4086 state to perform the obligation or responsibilities imposed upon
4087 it by this compact, the bylaws or duly promulgated rules and any
4088 other grounds designated in commission bylaws and rules. The
4089 Interstate Commission shall immediately notify the defaulting
4090 state in writing of the penalty imposed by the Interstate
4091 Commission and of the default pending a cure of the default. The
4092 commission shall stipulate the conditions and the time period
4093 within which the defaulting state must cure its default. If the
4094 defaulting state fails to cure the default within the time period
4095 specified by the commission, the defaulting state shall be
4096 terminated from the compact upon an affirmative vote of a majority
4097 of the compacting states and all rights, privileges and benefits
4098 conferred by this compact shall be terminated from the effective
4099 date of termination.

4100 (b) Within sixty (60) days of the effective date of
4101 termination of a defaulting state, the Commission shall notify the
4102 governor, the chief justice or chief judicial officer, the
4103 majority and minority leaders of the defaulting state's
4104 legislature, and the state council of that termination.

4105 (c) The defaulting state is responsible for all
4106 assessments, obligations and liabilities incurred through the

4107 effective date of termination including any obligations, the
4108 performance of which extends beyond the effective date of
4109 termination.

4110 (d) The Interstate Commission shall not bear any costs
4111 relating to the defaulting state unless otherwise mutually agreed
4112 upon in writing between the Interstate Commission and the
4113 defaulting state.

4114 (e) Reinstatement following termination of any
4115 compacting state requires both a reenactment of the compact by the
4116 defaulting state and the approval of the Interstate Commission
4117 pursuant to the rules.

4118 (3) **Judicial Enforcement.** The Interstate Commission may, by
4119 majority vote of the members, initiate legal action in the United
4120 States District Court for the District of Columbia or, at the
4121 discretion of the Interstate Commission, in the federal district
4122 where the Interstate Commission has its offices, to enforce
4123 compliance with the provisions of the compact, its duly
4124 promulgated rules and bylaws, against any compacting state in
4125 default. If judicial enforcement is necessary, the prevailing
4126 party shall be awarded all costs of the litigation, including
4127 reasonable attorney's fees.

4128 (4) **Dissolution of Compact.** (a) The compact dissolves
4129 effective upon the date of the withdrawal or default of the
4130 compacting state, which reduces membership in the compact to one
4131 (1) compacting state.

4132 (b) Upon the dissolution of the compact, the compact
4133 becomes null and void and shall be of no further force or effect,
4134 and the business and affairs of the Interstate Commission shall be
4135 concluded and any surplus funds shall be distributed in accordance
4136 with the bylaws.

4137 **ARTICLE XII**

4138 **SEVERABILITY AND CONSTRUCTION**

4139 (1) The provisions of this compact shall be severable, and
4140 if any phrase, clause, sentence or provision is deemed
4141 unenforceable, the remaining provisions of the compact shall be
4142 enforceable.

4143 (2) The provisions of this compact shall be liberally
4144 construed to effectuate its purposes.

4145 **ARTICLE XIII**

4146 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

4147 (1) **Other Laws.** (a) Nothing in this compact prevents the
4148 enforcement of any other law of a compacting state that is not
4149 inconsistent with this compact.

4150 (b) All compacting states' laws other than state
4151 constitutions and other interstate compacts conflicting with this
4152 compact are superseded to the extent of the conflict.

4153 (2) **Binding Effect of the Compact.** (a) All lawful actions
4154 of the Interstate Commission, including all rules and bylaws
4155 promulgated by the Interstate Commission, are binding upon the
4156 compacting states.

4157 (b) All agreements between the Interstate Commission
4158 and the compacting states are binding in accordance with their
4159 terms.

4160 (c) Upon the request of a party to a conflict over
4161 meaning or interpretation of Interstate Commission actions, and
4162 upon a majority vote of the compacting states, the Interstate
4163 Commission may issue advisory opinions regarding that meaning or
4164 interpretation.

4165 (d) If any provision of this compact exceeds the
4166 constitutional limits imposed on the legislature of any compacting
4167 state, the obligations, duties, powers or jurisdiction sought to
4168 be conferred by that provision upon the Interstate Commission
4169 shall be ineffective and those obligation, duties, powers or
4170 jurisdiction shall remain in the compacting state and shall be
4171 exercised by the agency thereof to which those obligations,

4172 duties, powers or jurisdiction are delegated by law in effect at
4173 the time this compact becomes effective.

4174 **SECTION 71.** Sections 43-25-1 through 43-25-17, Mississippi
4175 Code of 1972, which provide for the Interstate Compact on
4176 Juveniles, is repealed.

4177 **SECTION 72.** This act shall take effect and be in force from
4178 and after July 1, 2005, if it is effectuated on or before that
4179 date under Section 5 of the Voting Rights Act of 1965, as amended
4180 and extended. If it is effectuated under Section 5 of the Voting
4181 Rights Act of 1965, as amended and extended, after July 1, 2005,
4182 this act shall take effect and be in force from and after the date
4183 it is effectuated under Section 5 of the Voting Rights Act of
4184 1965, as amended and extended.