

By: Representative Carlton

To: Juvenile Justice

HOUSE BILL NO. 536

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,  
 2 TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES TO CONDUCT AN  
 3 ENVIRONMENTAL ASSESSMENT OF THE HOME OF A CHILD WHO IS IN THE  
 4 CUSTODY OF A STATE-SUPPORTED TRAINING SCHOOL BEFORE THE CHILD IS  
 5 RELEASED FROM SUCH SCHOOL, AND TO REQUIRE THAT THE DEPARTMENT  
 6 PROVIDE THE RESULTS OF THE ASSESSMENT TO THE COMMITTING COURT  
 7 BEFORE THE CHILD IS RETURNED TO HIS OR HER HOME; AND FOR RELATED  
 8 PURPOSES.

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

10 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is  
 11 amended as follows:

12 43-21-605. (1) In delinquency cases, the disposition order  
 13 may include any of the following alternatives:

14 (a) Release the child without further action;

15 (b) Place the child in the custody of the parents, a  
 16 relative or other persons subject to any conditions and  
 17 limitations, including restitution, as the youth court may  
 18 prescribe;

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

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

25 (e) Order terms of supervision which may include  
 26 participation in a constructive program of service or education or  
 27 civil fines not in excess of Five Hundred Dollars (\$500.00), or  
 28 restitution not in excess of actual damages caused by the child to  
 29 be paid out of his own assets or by performance of services

30 acceptable to the victims and approved by the youth court and  
31 reasonably capable of performance within one (1) year;

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

34 (g) Give legal custody of the child to any of the  
35 following:

36 (i) The Department of Human Services for  
37 appropriate placement; or

38 (ii) Any public or private organization,  
39 preferably community-based, able to assume the education, care and  
40 maintenance of the child, which has been found suitable by the  
41 court; or

42 (iii) The Department of Human Services for  
43 placement in a wilderness training program or a state-supported  
44 training school, except that no child under the age of ten (10)  
45 years shall be committed to a state training school. The training  
46 school may retain custody of the child until the child's twentieth  
47 birthday but for no longer. The superintendent of a state  
48 training school may parole a child at any time he may deem it in  
49 the best interest and welfare of such child. Twenty (20) days  
50 prior to such parole, the training school shall notify the  
51 committing court of the pending release. The youth court may then  
52 arrange subsequent placement after a reconvened disposition  
53 hearing except that the youth court may not recommit the child to  
54 the training school or any other secure facility without an  
55 adjudication of a new offense or probation or parole violation.  
56 Prior to assigning the custody of any child to any private  
57 institution or agency, the youth court through its designee shall  
58 first inspect the physical facilities to determine that they  
59 provide a reasonable standard of health and safety for the child.  
60 The youth court shall not place a child in the custody of a state  
61 training school for truancy, unless such child has been

62 adjudicated to have committed an act of delinquency in addition to  
63 truancy;

64 (h) Recommend to the child and the child's parents or  
65 guardian that the child attend and participate in the Youth  
66 Challenge Program under the Mississippi National Guard, as created  
67 in Section 43-27-203, subject to the selection of the child for  
68 the program by the National Guard; however, the child must  
69 volunteer to participate in the program. The youth court may not  
70 order any child to apply or attend the program;

71 (i) (i) Adjudicate the juvenile to the Statewide  
72 Juvenile Work Program if the program is established in the court's  
73 jurisdiction. The juvenile and his parents or guardians must sign  
74 a waiver of liability in order to participate in the work program.  
75 The judge will coordinate with the youth services counselors as to  
76 placing participants in the work program;

77 (ii) The severity of the crime, whether or not the  
78 juvenile is a repeat offender or is a felony offender will be  
79 taken into consideration by the judge when adjudicating a juvenile  
80 to the work program. The juveniles adjudicated to the work  
81 program will be supervised by police officers or reserve officers.  
82 The term of service will be from twenty-four (24) to one hundred  
83 twenty (120) hours of community service. A juvenile will work the  
84 hours to which he was adjudicated on the weekends during school  
85 and week days during the summer. Parents are responsible for a  
86 juvenile reporting for work. Noncompliance with an order to  
87 perform community service will result in a heavier adjudication.  
88 A juvenile may be adjudicated to the community service program  
89 only two (2) times;

90 (iii) The judge shall assess an additional fine on  
91 the juvenile which will be used to pay the costs of implementation  
92 of the program and to pay for supervision by police officers and  
93 reserve officers. The amount of the fine will be based on the  
94 number of hours to which the juvenile has been adjudicated;

95           (j) Order the child to participate in a youth court  
96 work program as provided in Section 43-21-627; or

97           (k) Order the child into a juvenile detention center  
98 operated by the county or into a juvenile detention center  
99 operated by any county with which the county in which the court is  
100 located has entered into a contract for the purpose of housing  
101 delinquents. The time period for such detention cannot exceed  
102 ninety (90) days. The youth court judge may order that the number  
103 of days specified in the detention order be served either  
104 throughout the week or on weekends only.

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

111           (3) If the youth court places a child in a state-supported  
112 training school, the court may order the parents or guardians of  
113 the child and other persons living in the child's household to  
114 receive counseling and parenting classes for rehabilitative  
115 purposes while the child is in the legal custody of the training  
116 school. A youth court entering an order under this subsection (3)  
117 shall utilize appropriate services offered either at no cost or  
118 for a fee calculated on a sliding scale according to income unless  
119 the person ordered to participate elects to receive other  
120 counseling and classes acceptable to the court at the person's  
121 sole expense.

122           (4) Before returning a child to his or her home upon release  
123 from a state-supported training school, the Department of Human  
124 Services shall conduct an environmental assessment of the home  
125 where such child shall reside after he or she is released. The  
126 Department of Human Services shall provide the results of the  
127 environmental assessment of the home to the committing court.

128 Before returning the child to the home, the committing court,  
129 based upon the assessment, must ensure that the return of the  
130 child to the home is in the best interest of the child, and that  
131 the home environment will be supportive of the child's  
132 rehabilitation.

133 (5) Fines levied under this chapter shall be paid into the  
134 general fund of the county but, in those counties wherein the  
135 youth court is a branch of the municipal government, it shall be  
136 paid into the municipal treasury.

137 (6) Any institution or agency to which a child has been  
138 committed shall give to the youth court any information concerning  
139 the child as the youth court may at any time require.

140 (7) The youth court shall not place a child in another  
141 school district who has been expelled from a school district for  
142 the commission of a violent act. For the purpose of this  
143 subsection, "violent act" means any action which results in death  
144 or physical harm to another or an attempt to cause death or  
145 physical harm to another.

146 (8) The youth court may require drug testing as part of a  
147 disposition order. If a child tests positive, the court may  
148 require treatment, counseling and random testing, as it deems  
149 appropriate. The costs of such tests shall be paid by the parent,  
150 guardian or custodian of the child unless the court specifically  
151 finds that the parent, guardian or custodian is unable to pay.

152 **SECTION 2.** This act shall take effect and be in force from  
153 and after July 1, 2005.