

By: Representative Carlton

To: Juvenile Justice

HOUSE BILL NO. 544

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; TO PROVIDE THAT
8 THE DEPARTMENT OF HUMAN SERVICES SHALL FIND CERTAIN SUITABLE
9 PLACEMENT FOR THE CHILD IF THE HOME FAILS TO MEET THE BEST
10 INTERESTS OF THE CHILD CONCERNING CONTINUED REHABILITATION OF THE
11 CHILD; AND FOR RELATED PURPOSES.

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

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

15 43-21-605. (1) In delinquency cases, the disposition order
16 may include any of the following alternatives:

17 (a) Release the child without further action;

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

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

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

28 (e) Order terms of supervision which may include
29 participation in a constructive program of service or education or
30 civil fines not in excess of Five Hundred Dollars (\$500.00), or
31 restitution not in excess of actual damages caused by the child to

32 be paid out of his own assets or by performance of services
33 acceptable to the victims and approved by the youth court and
34 reasonably capable of performance within one (1) year;

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

37 (g) Give legal custody of the child to any of the
38 following:

39 (i) The Department of Human Services for
40 appropriate placement; or

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

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

65 adjudicated to have committed an act of delinquency in addition to
66 truancy;

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

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

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

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

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

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

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

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

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

131 Before returning the child to the home, the committing court,
132 based in part upon the assessment, must ensure that the return of
133 the child to the home is in the best interest of the child, and
134 that the home environment will be supportive of the child's
135 rehabilitation. If the home fails to meet the best interests of
136 the child, which are to include ensuring the child's continued
137 rehabilitation, after the child departs from a state-supported
138 training school, then the Department of Human Services shall find
139 a suitable children's home or foster care placement where the
140 child's rehabilitation shall continue.

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

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

148 (7) The youth court shall not place a child in another
149 school district who has been expelled from a school district for
150 the commission of a violent act. For the purpose of this
151 subsection, "violent act" means any action which results in death
152 or physical harm to another or an attempt to cause death or
153 physical harm to another.

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

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