

By: Senator(s) Tollison

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2894

1 AN ACT TO ESTABLISH THE JUVENILE DETENTION FACILITIES
2 MONITORING UNIT AND A JUVENILE DETENTION FACILITIES ADVISORY
3 BOARD; TO PROVIDE THAT EVERY COUNTY SHALL ESTABLISH A JUVENILE
4 DRUG COURT BY A CERTAIN DATE; TO AMEND SECTION 43-14-1,
5 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT EACH MAP TEAM SHALL HAVE
6 AN "A" (ADOLESCENT) TEAM TO PROVIDE SERVICES FOR CERTAIN YOUTH
7 OFFENDERS; TO AMEND SECTION 43-14-5, MISSISSIPPI CODE OF 1972, IN
8 CONFORMITY THERETO; TO AMEND SECTION 43-21-105, MISSISSIPPI CODE
9 OF 1972, TO PROVIDE THAT UNDER DUAL JURISDICTION PROCEEDINGS THE
10 TERMS "CHILD" AND "YOUTH" APPLY TO CERTAIN YOUTH OVER THE AGE OF
11 18; TO AMEND SECTION 43-21-109, MISSISSIPPI CODE OF 1972, TO
12 PROVIDE THAT ALL YOUTH DETENTION FACILITIES SHALL BE OPERATED AND
13 ADMINISTERED BY A YOUTH COURT JUDGE; TO AMEND SECTION 43-21-151,
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A YOUTH COURT MAY HAVE
15 JURISDICTION OVER A CHILD AFTER HIS OR HER 18TH BIRTHDAY IF DUAL
16 JURISDICTION IS APPLIED; TO AMEND SECTION 43-21-157, MISSISSIPPI
17 CODE OF 1972, TO ESTABLISH DUAL JURISDICTION PROCEEDINGS WHERE A
18 CIRCUIT COURT JUDGE MAY IMPOSE A JUVENILE DISPOSITION FOR CERTAIN
19 NONVIOLENT FIRST-TIME YOUTH OFFENDERS; TO AMEND SECTION 43-21-159,
20 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION
21 43-21-315, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN A CHILD
22 IS TAKEN INTO CUSTODY AND IS DETAINED IN A DETENTION FACILITY,
23 SUCH FACILITY SHALL BE OPERATED BY A YOUTH COURT JUDGE; TO AMEND
24 SECTION 43-21-321, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A
25 YOUTH IN A DETENTION CENTER HAS BEEN SCREENED BY CERTAIN MENTAL
26 SCREENING INSTRUMENTS AND IT IS DETERMINED THAT THE YOUTH NEEDS
27 PROFESSIONAL MENTAL HELP, THEN THE CHILD MUST BE REFERRED TO SUCH
28 HELP WITHIN 48, HOURS; TO AMEND SECTION 43-21-605, MISSISSIPPI
29 CODE OF 1972, TO PROVIDE THAT ONLY CERTAIN DELINQUENT ACTS WILL
30 ALLOW A YOUTH COURT JUDGE TO COMMIT A CHILD TO A JUVENILE JUSTICE
31 CENTER, AND TO PROVIDE THAT YOUTH COMMITTED TO A JUVENILE JUSTICE
32 CENTER MUST STAY A MINIMUM OF A SCHOOL SEMESTER; TO AMEND SECTIONS
33 43-27-8 AND 43-27-20, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
34 PRECEDING PROVISIONS; TO AMEND SECTION 43-27-201, MISSISSIPPI CODE
35 OF 1972, TO REQUIRE THAT THE DIVISION OF YOUTH SERVICES SHALL
36 ESTABLISH AN ADOLESCENT OFFENDER PROGRAM IN EACH COUNTY BY A
37 CERTAIN DATE; TO AMEND SECTION 43-27-203, MISSISSIPPI CODE OF
38 1972, TO REVISE THE MISSISSIPPI YOUTH CHALLENGE PROGRAM; TO AMEND
39 SECTION 43-27-401, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
40 PRECEDING PROVISIONS; TO AMEND SECTION 47-5-138, MISSISSIPPI CODE
41 OF 1972, TO EXCLUDE YOUTH FROM THE 85% RULE WHO ARE UNDER THE AGE
42 OF 21, AND WHO HAVE COMMITTED NONVIOLENT OFFENSES AND ARE UNDER
43 THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS; TO AMEND
44 SECTIONS 47-5-151 AND 99-43-3, MISSISSIPPI CODE OF 1972, TO
45 CONFORM TO THE PRECEDING PROVISIONS; TO BRING FORWARD SECTIONS
46 43-21-117 AND 47-7-45, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
47 THAT THE ADMINISTRATIVE OFFICE OF COURTS SHALL MONITOR SUCH
48 CONTINUING EDUCATION; TO AMEND SECTION 43-21-123, MISSISSIPPI CODE
49 OF 1972, TO PROVIDE THAT YOUTH COURT EXPENDITURES SHALL BE
50 ADMINISTERED BY THE ADMINISTRATIVE OFFICE OF COURTS; TO AUTHORIZE
51 THE GOVERNOR TO EXECUTE THE COMPACT FOR JUVENILES; TO PRESCRIBE
52 ITS PURPOSE AND TO DEFINE CERTAIN TERMS; TO CREATE THE INTERSTATE

53 COMMISSION FOR JUVENILES FROM THE COMPACTING STATES AND TO
54 PRESCRIBE ITS POWERS AND DUTIES; TO ESTABLISH THE ORGANIZATION AND
55 OPERATION OF THE INTERSTATE COMMISSION; TO PRESCRIBE THE
56 RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION; TO PROVIDE
57 THAT OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BE DONE BY THE
58 INTERSTATE COMMISSION; TO PROVIDE FOR THE FINANCING OF THE
59 INTERSTATE COMMISSION; TO PROVIDE THAT EACH MEMBER STATE OF THE
60 COMPACT SHALL CREATE A STATE COUNCIL FOR INTERSTATE JUVENILE
61 SUPERVISION; TO PROVIDE FOR THE WITHDRAWAL, DEFAULT, TERMINATION
62 AND JUDICIAL ENFORCEMENT PROCEDURES OF THE COMPACT; TO BRING
63 FORWARD SECTIONS 37-7-301, 37-13-91, 37-13-92, 37-151-83 AND
64 43-21-621, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO
65 REPEAL SECTIONS 43-27-10, 43-27-11, 43-27-12, 43-27-22, 43-27-23,
66 43-27-25, 43-27-27, 43-27-29 AND 43-27-35, MISSISSIPPI CODE OF
67 1972, WHICH PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES HAS
68 JURISDICTION BEFORE THE JUVENILE CORRECTIONAL FACILITIES; TO
69 REPEAL SECTIONS 43-25-1 THROUGH 43-25-17, MISSISSIPPI CODE OF
70 1972, WHICH PROVIDE THE INTERSTATE COMPACT ON JUVENILES; AND FOR
71 RELATED PURPOSES.

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

73 **SECTION 1.** (1) There is established the Juvenile Detention
74 Facilities Monitoring Unit within the Mississippi Department of
75 Public Safety under the Division of Public Safety Planning's
76 Office of Justice Programs. The unit shall inspect all juvenile
77 detention facilities on a quarterly basis. The inspections shall
78 encompass the following:

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

82 (b) Providing technical assistance and advice to
83 juvenile detention facilities, which will assist the facilities in
84 complying with the minimum standards.

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

86 (a) To conduct an assessment of all juvenile detention
87 facilities and to determine how far each is from coming into
88 compliance with the minimum standards, as established in Section
89 43-21-301(6) and Section 43-21-321; and

90 (b) To develop a strategic plan and a timeline for each
91 juvenile detention facility to come into compliance with the
92 minimum standards as described in paragraph (b) of this
93 subsection.

94 SECTION 2. (1) There is established the Juvenile Detention
95 Facilities Advisory Board, which will serve as a permanent
96 advisory and oversight entity to the Juvenile Facilities Detention
97 Monitoring Unit, as created in Section 1 of this act.

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

101 (a) Two (2) representatives of juvenile detention
102 facilities who are appointed by the Commissioner of the Department
103 of Public Safety;

104 (b) One (1) representative of the Office of Youth
105 Services of the Department of Human Services who is appointed by
106 the Executive Director of the Department of Human Services;

107 (c) One (1) representative of the Division of Public
108 Safety Planning of the Department of Public Safety who is not from
109 the Office of Justice Programs, who is appointed by the
110 Commissioner of Public Safety;

111 (d) One (1) representative of the State Department of
112 Health who is appointed by the Executive Director of the State
113 Department of Health;

114 (e) One (1) representative of the Department of Mental
115 Health who is appointed by the Executive Director of the
116 Department of Mental Health;

117 (f) One (1) representative of the Mississippi
118 Association of Supervisors who is appointed by the Director of the
119 Mississippi Association of Supervisors;

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

123 (h) One (1) representative of the county sheriffs who
124 is appointed by the President of the Mississippi Sheriff's
125 Association;

126 (i) One (1) representative of a youth advocacy
127 organization or group who is appointed by the Director of the
128 Office of Youth Services of the Department of Human Services;
129 (j) One (1) representative of the Mississippi Council
130 of Youth Court Judges who is appointed by the President of the
131 Mississippi Council of Youth Court Judges;
132 (k) One (1) attorney representative who has experience
133 in youth court matters, who is appointed by the Attorney General;
134 (l) Two (2) members of the Juvenile Justice Committee
135 of the House of Representatives and one (1) parent of a child who
136 is committed or has been committed to a state training school, who
137 are appointed by the Speaker of the House of Representatives;
138 (m) Two (2) members of the Judiciary B Committee of the
139 Senate who are appointed by the Lieutenant Governor;
140 (n) One (1) representative of a faith-based community,
141 who is appointed by the Governor; and
142 (o) One (1) representative from the Mississippi
143 citizenry at large who is appointed by the Governor.
144 (3) The duties of the advisory board are as follows:
145 (a) To periodically review standards for the operation
146 of juvenile detention facilities;
147 (b) To periodically review standards for the
148 appropriate delivery of essential services and programs for youth
149 housed at juvenile detention facilities;
150 (c) To periodically review the training requirements of
151 personnel of the juvenile detention facilities;
152 (d) To serve in an oversight capacity to the monitoring
153 unit in ensuring that the unit moves toward improving juvenile
154 detention facilities; and
155 (e) To continue to make further recommendations to
156 improve or expand basic standards for juvenile detention
157 facilities.

158 (4) At its first meeting, and every four (4) years
159 thereafter, the advisory board shall elect a chairman and vice
160 chairman from its membership, and shall adopt rules for
161 transacting its business and keeping records. The advisory board
162 may establish an attendance policy, and those members of the
163 advisory board who are consistently absent shall be replaced.

164 (5) If sufficient funds are available to the advisory board
165 for that purpose, members of the advisory board may receive a per
166 diem in the amount provided in Section 25-3-69 for each day
167 engaged in the business of the advisory board, and members of the
168 advisory board other than the legislative members may receive
169 reimbursement for travel expenses incurred while engaged in
170 official business of the advisory board in accordance with Section
171 25-3-41.

172 **SECTION 3.** Beginning July 1, 2006, every county of the state
173 shall establish a juvenile drug court as prescribed in Section
174 9-23-1 et seq. The phase in of the juvenile drug courts shall
175 occur over a period of four (4) years as follows:

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

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

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

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

188 **SECTION 4.** Section 43-14-1, Mississippi Code of 1972, is
189 amended as follows:

190 43-14-1. (1) The purpose of this chapter is to provide for
191 the development and implementation of a coordinated interagency
192 system of necessary services and care for children and youth up to
193 age twenty-one (21) with serious emotional/behavioral disorders
194 including, but not limited to, conduct disorders, or mental
195 illness who require services from a multiple services and multiple
196 programs system, and who can be successfully diverted from
197 inappropriate institutional placement. This program is to be done
198 in the most fiscally responsible (cost efficient) manner possible,
199 based on an individualized plan of care which takes into account
200 other available interagency programs, including, but not limited
201 to, Early Intervention Act of Infants and Toddlers, Section
202 41-87-1 et seq., Early Periodic Screening Diagnosis and Treatment,
203 Section 43-13-117(5), waived program for home- and
204 community-based services for developmentally disabled people,
205 Section 43-13-117(29), and waived program for targeted case
206 management services for children with special needs, Section
207 43-13-117(31), those children identified through the federal
208 Individuals with Disabilities Education Act of 1997 as having a
209 serious emotional disorder (EMD), the Mississippi Children's
210 Health Insurance Program Phase I and Phase II and waived
211 programs for children with serious emotional disturbances, Section
212 43-13-117(46), and is tied to clinically appropriate outcomes.
213 Some of the outcomes are to reduce the number of inappropriate
214 out-of-home placements inclusive of those out-of-state and to
215 reduce the number of inappropriate school suspensions and
216 expulsions for this population of children. From and after July
217 1, 2001, this coordinated interagency system of necessary services
218 and care shall be named the System of Care program. Children to
219 be served by this chapter who are eligible for Medicaid shall be
220 screened through the Medicaid Early Periodic Screening Diagnosis
221 and Treatment (EPSDT) and their needs for medically necessary
222 services shall be certified through the EPSDT process. For

223 purposes of this chapter, a "System of Care" is defined as a
224 coordinated network of agencies and providers working as a team to
225 make a full range of mental health and other necessary services
226 available as needed by children with mental health problems and
227 their families. The System of Care shall be:

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

229 (b) Community based;

230 (c) Culturally competent and responsive; and shall
231 provide for:

232 (i) Service coordination or case management;

233 (ii) Prevention and early identification and
234 intervention;

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

237 (iv) Human rights protection and advocacy;

238 (v) Nondiscrimination in access to services;

239 (vi) A comprehensive array of services;

240 (vii) Individualized service planning;

241 (viii) Services in the least restrictive
242 environment;

243 (ix) Family participation in all aspects of
244 planning, service delivery and evaluation; and

245 (x) Integrated services with coordinated planning
246 across child-serving agencies.

247 (2) There is established the Interagency Coordinating
248 Council for Children and Youth (hereinafter referred to as the
249 "ICCCY"). The ICCCY shall consist of the following membership:

250 (a) the State Superintendent of Public Education; (b) the

251 Executive Director of the Mississippi Department of Mental Health;

252 (c) the Executive Director of the State Department of Health; (d)

253 the Executive Director of the Department of Human Services; (e)

254 the Executive Director of the Division of Medicaid, Office of the

255 Governor; (f) the Executive Director of the State Department of

256 Rehabilitation Services; and (g) the Executive Director of
257 Mississippi Families as Allies for Children's Mental Health, Inc.
258 The council shall meet before August 1, 2001, and shall organize
259 for business by selecting a chairman, who shall serve for a
260 one-year term and may not serve consecutive terms. The council
261 shall adopt internal organizational procedures necessary for
262 efficient operation of the council. Each member of the council
263 shall designate necessary staff of their departments to assist the
264 ICCCY in performing its duties and responsibilities. The ICCCY
265 shall meet and conduct business at least twice annually. The
266 chairman of the ICCCY shall notify all persons who request such
267 notice as to the date, time and place of each meeting.

268 (3) The Interagency System of Care Council is created to
269 serve as the state management team for the ICCCY, with the
270 responsibility of collecting and analyzing data and funding
271 strategies necessary to improve the operation of the System of
272 Care programs, and to make recommendations to the ICCCY and to the
273 Legislature concerning such strategies on or before December 31,
274 2002. The System of Care Council also has the responsibility of
275 coordinating the local Multidisciplinary Assessment and Planning
276 (MAP) teams and may apply for grants from public and private
277 sources necessary to carry out its responsibilities. The
278 Interagency System of Care Council shall be comprised of one (1)
279 member from each of the appropriate child-serving divisions or
280 sections of the State Department of Health, the Department of
281 Human Services, the State Department of Mental Health, the State
282 Department of Education, the Division of Medicaid of the
283 Governor's Office, the Department of Rehabilitation Services, a
284 family member representing a family education and support 501(c)3
285 organization, a representative from the Council of Administrators
286 for Special Education/Mississippi Organization of Special
287 Education Supervisors (CASE/MOSES) and a family member designated
288 by Mississippi Families as Allies for Children's Mental Health,

289 Inc. Appointments to the Interagency System of Care Council shall
290 be made within sixty (60) days after the effective date of this
291 act. The council shall organize by selecting a chairman from its
292 membership to serve on an annual basis, and the chairman may not
293 serve consecutive terms.

294 (4) (a) There is established a statewide system of local
295 Multidisciplinary Assessment and Planning Resource (MAP) teams.
296 The MAP teams shall be comprised of one (1) representative each at
297 the county level from the major child-serving public agencies for
298 education, human services, health, mental health and
299 rehabilitative services approved by respective state agencies of
300 the Department of Education, the Department of Human Services, the
301 Department of Health, the Department of Mental Health and the
302 Department of Rehabilitation Services. Three (3) additional
303 members may be added to each team, one (1) of which may be a
304 representative of a family education/support 501(c)3 organization
305 with statewide recognition and specifically established for the
306 population of children defined in Section 43-14-1. The remaining
307 two (2) members will be representatives of significant
308 community-level stakeholders with resources that can benefit the
309 population of children defined in Section 43-14-1.

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

- 317 (i) A school counselor;
318 (ii) A community mental health professional;
319 (iii) A social services/child welfare
320 professional;
321 (iv) A youth court counselor; and

322 (v) A parent who had a child in the juvenile
323 justice system.

324 (5) The Interagency Coordinating Council for Children and
325 Youth may provide input relative to how each agency utilizes its
326 federal and state statutes, policy requirements and funding
327 streams to identify and/or serve children and youth in the
328 population defined in Section 43-14-1. The ICCCY shall support
329 the implementation of the plans of the respective state agencies
330 for comprehensive multidisciplinary care, treatment and placement
331 of these children.

332 (6) The ICCCY shall oversee a pool of state funds that may
333 be contributed by each participating state agency and additional
334 funds from the Mississippi Tobacco Health Care Expenditure Fund,
335 subject to specific appropriation therefor by the Legislature.
336 Part of this pool of funds shall be available for increasing the
337 present funding levels by matching Medicaid funds in order to
338 increase the existing resources available for necessary
339 community-based services for Medicaid beneficiaries.

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

343 (8) Each local MAP team shall serve as the single point of
344 entry to ensure that comprehensive diagnosis and assessment occur
345 and shall coordinate needed services through the local
346 coordinating care entity for the children named in subsection (1).
347 Local children in crisis shall have first priority for access to
348 the MAP team processes and local System of Care programs.

349 (9) The Interagency Coordinating Council for Children and
350 Youth shall facilitate monitoring of the performance of local MAP
351 teams.

352 (10) Each state agency named in subsection (2) of this
353 section shall enter into a binding interagency agreement to
354 participate in the oversight of the statewide System of Care

355 programs for the children and youth described in this section.
356 The agreement shall be signed and in effect by July 1 of each
357 year.

358 (11) This section shall stand repealed from and after July
359 1, 2005.

360 **SECTION 5.** Section 43-14-5, Mississippi Code of 1972, is
361 amended as follows:

362 43-14-5. There is created in the State Treasury a special
363 fund into which shall be deposited all funds contributed by the
364 Department of Human Services, State Department of Health,
365 Department of Mental Health, State Department of Rehabilitation
366 Services insofar as recipients are otherwise eligible under the
367 Rehabilitation Act of 1973, as amended, and State Department of
368 Education for the operation of a statewide System of Care by MAP
369 teams and "A" teams utilizing such funds as may be made available
370 to those MAP teams through a Request for Proposal (RFP) approved
371 by the ICCCY.

372 This section shall stand repealed from and after July 1,
373 2005.

374 **SECTION 6.** Section 43-21-105, Mississippi Code of 1972, is
375 amended as follows:

376 43-21-105. The following words and phrases, for purposes of
377 this chapter, shall have the meanings ascribed herein unless the
378 context clearly otherwise requires:

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

380 (b) "Judge" means the judge of the Youth Court
381 Division.

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

386 (d) "Child" and "youth" are synonymous, and each means
387 a person who has not reached his eighteenth birthday, except that

388 the terms "child" or "youth" extend until the age of twenty (20)
389 if the child or youth is under dual jurisdiction pursuant to
390 Section 43-21-157(10). A child who has not reached his eighteenth
391 birthday and is on active duty for a branch of the armed services
392 or is married is not considered a "child" or "youth" for the
393 purposes of this chapter.

394 (e) "Parent" means the father or mother to whom the
395 child has been born, or the father or mother by whom the child has
396 been legally adopted.

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

399 (g) "Custodian" means any person having the present
400 care or custody of a child whether such person be a parent or
401 otherwise.

402 (h) "Legal custodian" means a court-appointed custodian
403 of the child.

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

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

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

415 (i) Is habitually disobedient of reasonable and
416 lawful commands of his parent, guardian or custodian and is
417 ungovernable; or

418 (ii) While being required to attend school,
419 willfully and habitually violates the rules thereof or willfully
420 and habitually absents himself therefrom; or

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

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

423 (1) "Neglected child" means a child:

424 (i) Whose parent, guardian or custodian or any
425 person responsible for his care or support, neglects or refuses,
426 when able so to do, to provide for him proper and necessary care
427 or support, or education as required by law, or medical, surgical,
428 or other care necessary for his well-being; provided, however, a
429 parent who withholds medical treatment from any child who in good
430 faith is under treatment by spiritual means alone through prayer
431 in accordance with the tenets and practices of a recognized church
432 or religious denomination by a duly accredited practitioner
433 thereof shall not, for that reason alone, be considered to be
434 neglectful under any provision of this chapter; or

435 (ii) Who is otherwise without proper care,
436 custody, supervision or support; or

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

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

442 (m) "Abused child" means a child whose parent, guardian
443 or custodian or any person responsible for his care or support,
444 whether legally obligated to do so or not, has caused or allowed
445 to be caused upon said child sexual abuse, sexual exploitation,
446 emotional abuse, mental injury, nonaccidental physical injury or
447 other maltreatment. Provided, however, that physical discipline,
448 including spanking, performed on a child by a parent, guardian or
449 custodian in a reasonable manner shall not be deemed abuse under
450 this section.

451 (n) "Sexual abuse" means obscene or pornographic
452 photographing, filming or depiction of children for commercial
453 purposes, or the rape, molestation, incest, prostitution or other

454 such forms of sexual exploitation of children under circumstances
455 which indicate that the child's health or welfare is harmed or
456 threatened.

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

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

466 (q) "Custody" means the physical possession of the
467 child by any person.

468 (r) "Legal custody" means the legal status created by a
469 court order which gives the legal custodian the responsibilities
470 of physical possession of the child and the duty to provide him
471 with food, shelter, education and reasonable medical care, all
472 subject to residual rights and responsibilities of the parent or
473 guardian of the person.

474 (s) "Detention" means the care of children in
475 physically restrictive facilities.

476 (t) "Shelter" means care of children in physically
477 nonrestrictive facilities.

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

480 (i) All youth court records as defined in Section
481 43-21-251;

482 (ii) All social records as defined in Section
483 43-21-253;

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

486 (iv) All agency records as defined in Section
487 43-21-257; and

488 (v) All other documents maintained by any
489 representative of the state, county, municipality or other public
490 agency insofar as they relate to the apprehension, custody,
491 adjudication or disposition of a child who is the subject of a
492 youth court cause.

493 (v) "Any person responsible for care or support" means
494 the person who is providing for the child at a given time. This
495 term shall include, but is not limited to, stepparents, foster
496 parents, relatives, nonlicensed babysitters or other similar
497 persons responsible for a child and staff of residential care
498 facilities and group homes that are licensed by the Department of
499 Human Services.

500 (w) The singular includes the plural, the plural the
501 singular and the masculine the feminine when consistent with the
502 intent of this chapter.

503 (x) "Out-of-home" setting means the temporary
504 supervision or care of children by the staff of licensed day care
505 centers, the staff of public, private and state schools, the staff
506 of juvenile detention facilities, the staff of unlicensed
507 residential care facilities and group homes and the staff of, or
508 individuals representing, churches, civic or social organizations.

509 (y) "Durable legal custody" means the legal status
510 created by a court order which gives the durable legal custodian
511 the responsibilities of physical possession of the child and the
512 duty to provide him with care, nurture, welfare, food, shelter,
513 education and reasonable medical care. All these duties as
514 enumerated are subject to the residual rights and responsibilities
515 of the natural parent(s) or guardian(s) of the child or children.

516 **SECTION 7.** Section 43-21-109, Mississippi Code of 1972, is
517 amended as follows:

518 43-21-109. Any county or municipality may separately or
519 jointly establish and maintain detention facilities, shelter
520 facilities, foster homes, or any other facility necessary to carry
521 on the work of the youth court; however, all youth detention
522 facilities shall be operated and administered by a youth court
523 judge. For said purposes, the county or municipality may acquire
524 necessary land by condemnation, by purchase or donation, may issue
525 bonds as now provided by law for the purpose of purchasing,
526 constructing, remodeling or maintaining such facilities; may
527 expend necessary funds from the general fund to construct and
528 maintain such facilities, and may employ architects to design or
529 remodel such facilities. Such facilities may include a place for
530 housing youth court facilities and personnel.

531 **SECTION 8.** Section 43-21-151, Mississippi Code of 1972, is
532 amended as follows:

533 43-21-151. (1) The youth court shall have exclusive
534 original jurisdiction in all proceedings concerning a delinquent
535 child, a child in need of supervision, a neglected child, an
536 abused child or a dependent child except in the following
537 circumstances:

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

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

547 (c) When a charge of abuse of a child first arises in
548 the course of a custody action between the parents of the child
549 already pending in the chancery court and no notice of such abuse
550 was provided prior to such chancery proceedings, the chancery

551 court may proceed with the investigation, hearing and
552 determination of such abuse charge as a part of its hearing and
553 determination of the custody issue as between the parents,
554 notwithstanding the other provisions of the Youth Court Law. The
555 proceedings in chancery court on the abuse charge shall be
556 confidential in the same manner as provided in youth court
557 proceedings.

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

561 (2) Jurisdiction of the child in the cause shall attach at
562 the time of the offense and shall continue thereafter for that
563 offense until the child's twentieth birthday, unless sooner
564 terminated by order of the youth court. Except when a child is
565 under dual jurisdiction proceedings, as authorized under Section
566 43-21-157(10), the youth court shall not have jurisdiction over
567 offenses committed by a child on or after his eighteenth birthday,
568 or over offenses committed by a child on or after his seventeenth
569 birthday where such offenses would be a felony if committed by an
570 adult.

571 (3) No child who has not reached his thirteenth birthday
572 shall be held criminally responsible or criminally prosecuted for
573 a misdemeanor or felony; however, the parent, guardian or
574 custodian of such child may be civilly liable for any criminal
575 acts of such child. No child under the jurisdiction of the youth
576 court shall be held criminally responsible or criminally
577 prosecuted by any court for any act designated as a delinquent
578 act, unless jurisdiction is transferred to another court under
579 Section 43-21-157.

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

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

586 **SECTION 9.** Section 43-21-157, Mississippi Code of 1972, is
587 amended as follows:

588 43-21-157. (1) If a child who has reached his thirteenth
589 birthday is charged by petition to be a delinquent child, the
590 youth court, either on motion of the youth court prosecutor or on
591 the youth court's own motion, after a hearing as hereinafter
592 provided, may, in its discretion, transfer jurisdiction of the
593 alleged offense described in the petition or a lesser included
594 offense to the criminal court which would have trial jurisdiction
595 of such offense if committed by an adult. The child shall be
596 represented by counsel in transfer proceedings.

597 (2) A motion to transfer shall be filed on a day prior to
598 the date set for the adjudicatory hearing but not more than ten
599 (10) days after the filing of the petition. The youth court may
600 order a transfer study at any time after the motion to transfer is
601 filed. The transfer study and any other social record which the
602 youth court will consider at the transfer hearing shall be made
603 available to the child's counsel prior to the hearing. Summons
604 shall be served in the same manner as other summons under this
605 chapter with a copy of the motion to transfer and the petition
606 attached thereto.

607 (3) The transfer hearing shall be bifurcated. At the
608 transfer hearing, the youth court shall first determine whether
609 probable cause exists to believe that the child committed the
610 alleged offense. For the purpose of the transfer hearing only,
611 the child may, with the assistance of counsel, waive the
612 determination of probable cause.

613 (4) Upon such a finding of probable cause, the youth court
614 may transfer jurisdiction of the alleged offense and the youth if
615 the youth court finds by clear and convincing evidence that there

616 are no reasonable prospects of rehabilitation within the juvenile
617 justice system.

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

621 (a) Whether or not the alleged offense constituted a
622 substantial danger to the public;

623 (b) The seriousness of the alleged offense;

624 (c) Whether or not the transfer is required to protect
625 the community;

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

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

631 (f) The sophistication, maturity and educational
632 background of the child;

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

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

638 (i) Whether or not the child can be retained in the
639 juvenile justice system long enough for effective treatment or
640 rehabilitation;

641 (j) The dispositional resources available to the
642 juvenile justice system;

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

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

648 (m) Any other factors deemed relevant by the youth
649 court; and

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

654 (6) If the youth court transfers jurisdiction of the alleged
655 offense to a criminal court, the youth court shall enter a
656 transfer order containing:

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

659 (b) Facts showing that the child was represented by
660 counsel;

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

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

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

670 (f) A designation of the alleged offense transferred
671 and of the court to which the transfer is made and a direction to
672 the clerk to forward for filing in such court a certified copy of
673 the transfer order of the youth court.

674 (7) The testimony of the child respondent at a transfer
675 hearing conducted pursuant to this chapter shall not be admissible
676 against the child in any proceeding other than the transfer
677 hearing.

678 (8) When jurisdiction of an offense is transferred to the
679 circuit court, or when a youth has committed an act which is in
680 original circuit court jurisdiction pursuant to Section 43-21-151,

681 the jurisdiction of the youth court over the youth is forever
682 terminated, except that such jurisdiction is not forever
683 terminated if the circuit court transfers or remands the
684 transferred case to the youth court or if a child who has been
685 transferred to the circuit court or is in the original
686 jurisdiction of the circuit court is not convicted, and except
687 that the circuit court, in its discretion, utilizes dual
688 jurisdiction proceedings for certain first-time offenders as
689 authorized in subsection (10) of this section. However, when
690 jurisdiction of an offense is transferred to the circuit court
691 pursuant to this section or when an offense committed by a youth
692 is in original circuit court jurisdiction pursuant to Section
693 43-21-151, the circuit court shall thereafter assume and retain
694 jurisdiction of any felony offenses committed by such youth
695 without any additional transfer proceedings, except when the
696 circuit court utilizes dual jurisdiction proceedings for certain
697 first-time offenders as authorized in subsection (10) of this
698 section. Any misdemeanor offenses committed by youth who are in
699 circuit court jurisdiction pursuant to this section or Section
700 43-21-151 shall be prosecuted in the court which would have
701 jurisdiction over that offense if committed by an adult without
702 any additional transfer proceedings. The circuit court may review
703 the transfer proceedings on motion of the transferred child. Such
704 review shall be on the record of the hearing in the youth court.
705 The circuit court shall remand the offense to the youth court if
706 there is no substantial evidence to support the order of the youth
707 court. The circuit court may also review the conditions of
708 custody or release pending criminal court proceedings.

709 (9) When any youth has been the subject of a transfer to
710 circuit court for an offense committed in any county of the state
711 or has committed any act which is in the original jurisdiction of
712 the circuit court pursuant to Section 43-21-151, that transfer or
713 original jurisdiction shall be recognized by all other courts of

714 the state and no subsequent offense committed by such youth in any
715 county of the state shall be in the jurisdiction of the youth
716 court unless transferred to the youth court pursuant to Section
717 43-21-159(3). Transfers from youth courts of other states shall
718 be recognized by the courts of this state and no youth who has a
719 pending charge or a conviction in the adult court system of any
720 other state shall be in the jurisdiction of the youth courts of
721 this state, but such youths shall be in the jurisdiction of the
722 circuit court for any felony committed in this state or in the
723 jurisdiction of the court of competent jurisdiction for any
724 misdemeanor committed in this state.

725 (10) (a) The circuit court may, in cases which met the
726 criteria of paragraphs (a) through (c) of this subsection (10) and
727 where the offender has been transferred to a court of general
728 jurisdiction pursuant to subsection (8) of this section and whose
729 prosecution results in a conviction or a plea of guilty, may
730 invoke dual jurisdiction of both the criminal and juvenile codes,
731 as set forth in this subsection. The circuit court is authorized
732 to impose a juvenile disposition and simultaneously impose an
733 adult criminal sentence, the execution of which shall be suspended
734 pursuant to the provisions of this subsection. Successful
735 completion of the juvenile disposition ordered shall be a
736 condition of the suspended adult criminal sentence. The circuit
737 court may order an offender into the custody of the Division of
738 Youth Services if:

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

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

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

746 (iv) A facility is designed and built by the
747 Division of Youth Services specifically for offenders pursuant to
748 this section and if the division determines that there is space
749 available, based on design capacity in the facility; and

750 (v) The department agrees to accept such
751 commitments.

752 (b) If there is probable cause to believe that the
753 offender has violated a condition of the suspended sentence or
754 committed a new offense, the circuit court shall conduct a hearing
755 on the violation charged, unless the offender waives such hearing.
756 If the violation is established and found the court may continue
757 or revoke the juvenile disposition, impose the adult criminal
758 sentence or enter such other order as it may see fit.

759 (c) When an offender has received a suspended sentence
760 pursuant to this subsection (10) and the Division of Youth
761 Services determines the child is beyond the scope of its treatment
762 programs, the department may petition the court for a transfer of
763 custody of the offender. The court shall hold a hearing:

764 (i) To revoke the suspension and direct that the
765 offender be taken into immediate custody of the Department of
766 Corrections; and

767 (ii) To direct that the offender be placed on
768 probation.

769 (d) When an offender has received a suspended sentence
770 and has reached the age of twenty (20), the court shall hold a
771 hearing for the following purposes:

772 (i) To revoke the suspension and direct that the
773 offender be taken into immediate custody of the Department of
774 Corrections;

775 (ii) To direct that the offender be placed on
776 probation; or

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

780 (e) The Division of Youth Services shall petition the
781 circuit court for a hearing before it releases an offender who
782 comes within subsection (10) of this section at any time before
783 the offender reaches the age of twenty-one (21). The circuit
784 court shall:

785 (i) Revoke the suspension and direct that the
786 offender be taken into immediate custody of the Department of
787 Corrections; or

788 (ii) Direct that the offender be placed on
789 probation.

790 (f) If the suspension of the adult criminal sentence is
791 revoked, all time served by the offender under the juvenile
792 disposition shall be credited toward the adult criminal sentence
793 imposed.

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

797 **SECTION 10.** Section 43-21-159, Mississippi Code of 1972, is
798 amended as follows:

799 43-21-159. (1) When a person appears before a court other
800 than the youth court, and it is determined that the person is a
801 child under jurisdiction of the youth court, such court shall,
802 unless the jurisdiction of the offense has been transferred to
803 such court as provided in this chapter, or unless the child has
804 previously been the subject of a transfer from the youth court to
805 the circuit court for trial as an adult and was convicted, or the
806 child is under dual jurisdiction proceedings as authorized under
807 Section 43-21-157(10), immediately dismiss the proceeding without
808 prejudice and forward all documents pertaining to the cause to the
809 youth court; and all entries in permanent records shall be

810 expunged. The youth court shall have the power to order and
811 supervise the expunction or the destruction of such records in
812 accordance with Section 43-21-265. Upon petition therefor, the
813 youth court shall expunge the record of any case within its
814 jurisdiction in which an arrest was made, the person arrested was
815 released and the case was dismissed or the charges were dropped or
816 there was no disposition of such case. In cases where the child
817 is charged with a hunting or fishing violation or a traffic
818 violation whether it be any state or federal law, a violation of
819 the Mississippi Implied Consent Law, or municipal ordinance or
820 county resolution or where the child is charged with a violation
821 of Section 67-3-70, the appropriate criminal court shall proceed
822 to dispose of the same in the same manner as for other adult
823 offenders and it shall not be necessary to transfer the case to
824 the youth court of the county. Unless the cause has been
825 transferred, or unless the child has previously been the subject
826 of a transfer from the youth court to the circuit court for trial
827 as an adult, except for violations under the Implied Consent Law,
828 and was convicted, the youth court shall have power on its own
829 motion to remove jurisdiction from any criminal court of any
830 offense including a hunting or fishing violation, a traffic
831 violation, or a violation of Section 67-3-70, committed by a child
832 in a matter under the jurisdiction of the youth court and proceed
833 therewith in accordance with the provisions of this chapter.

834 (2) After conviction and sentence of any child by any other
835 court having original jurisdiction on a misdemeanor charge, and
836 within the time allowed for an appeal of such conviction and
837 sentence, the youth court of the county shall have the full power
838 to stay the execution of the sentence and to release the child on
839 good behavior or on other order as the youth court may see fit to
840 make unless the child has previously been the subject of a
841 transfer from the youth court to the circuit court for trial as an
842 adult and was convicted. When a child is convicted of a

843 misdemeanor and is committed to, incarcerated in or imprisoned in
844 a jail or other place of detention by a criminal court having
845 proper jurisdiction of such charge, such court shall notify the
846 youth court judge or the judge's designee of the conviction and
847 sentence prior to the commencement of such incarceration. The
848 youth court shall have the power to order and supervise the
849 destruction of any records involving children maintained by the
850 criminal court in accordance with Section 43-21-265. However, the
851 youth court shall have the power to set aside a judgment of any
852 other court rendered in any matter over which the youth court has
853 exclusive original jurisdiction, to expunge or destroy the records
854 thereof in accordance with Section 43-21-265, and to order a
855 refund of fines and costs.

856 (3) Nothing in subsection (1) or (2) shall apply to a youth
857 who has a pending charge or a conviction for any crime over which
858 circuit court has original jurisdiction, unless the circuit court,
859 in its discretion, utilizes dual jurisdiction proceedings as
860 authorized in Section 43-21-157(10).

861 (4) In any case wherein the defendant is a child as defined
862 in this chapter and of which the circuit court has original
863 jurisdiction, the circuit judge, upon a finding that it would be
864 in the best interest of such child and in the interest of justice,
865 may at any stage of the proceedings prior to the attachment of
866 jeopardy transfer such proceedings to the youth court for further
867 proceedings unless the child has previously been the subject of a
868 transfer from the youth court to the circuit court for trial as an
869 adult and was convicted or has previously been convicted of a
870 crime which was in original circuit court jurisdiction, and the
871 youth court shall, upon acquiring jurisdiction, proceed as
872 provided in this chapter for the adjudication and disposition of
873 delinquent child proceeding proceedings. If the case is not
874 transferred to the youth court and the youth is convicted of a
875 crime by any circuit court, the trial judge shall sentence the

876 youth as though such youth was an adult. The circuit court shall
877 not have the authority to commit such child to the custody of the
878 Division of Youth Services for placement in a state-supported
879 juvenile justice center.

880 (5) In no event shall a court sentence an offender over the
881 age of eighteen (18) to the custody of the Division of Youth
882 Services for placement in a state-supported juvenile justice
883 center, unless the offender is under dual jurisdiction proceedings
884 as authorized under Section 43-21-157(10).

885 (6) When a child's driver's license is suspended by the
886 youth court for any reason, the clerk of the youth court shall
887 report the suspension, without a court order under Section
888 43-21-261, to the Commissioner of Public Safety in the same manner
889 as such suspensions are reported in cases involving adults.

890 (7) No offense involving the use or possession of a firearm
891 by a child who has reached his fifteenth birthday and which, if
892 committed by an adult would be a felony, shall be transferred to
893 the youth court.

894 **SECTION 11.** Section 43-21-315, Mississippi Code of 1972, is
895 amended as follows:

896 43-21-315. (1) The youth court shall, by general order or
897 rule of court, designate the available detention or shelter
898 facilities to which children shall be delivered when taken into
899 custody; however, when a child is delivered to a detention
900 facility the facility shall be administered and operated by a
901 youth court judge as prescribed in Section 43-21-109. Copies of
902 the order or rule shall be made available to the Department of
903 Human Services and all law enforcement agencies within the
904 territorial jurisdiction of the youth court.

905 (2) Except as otherwise provided in this chapter, unless
906 jurisdiction is transferred, no child shall be placed in any jail
907 or place of detention of adults by any person or court unless the
908 child shall be physically segregated from other persons not

909 subject to the jurisdiction of the youth court and the physical
910 arrangement of such jail or place of detention of adults prevents
911 such child from having substantial contact with and substantial
912 view of such other persons; but in any event, the child shall not
913 be confined anywhere in the same cell with persons not subject to
914 the jurisdiction of the youth court. Any order placing a child
915 into custody shall comply with the detention requirements provided
916 in Section 43-21-301(6). This subsection shall not be construed
917 to apply to commitments to the training school under Section
918 43-21-605(1)(g)(iii).

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

925 (4) After a child is ordered into custody, the youth court
926 may arrange for the custody of the child with any private
927 institution or agency caring for children, may commit the child to
928 the Department of Mental Health pursuant to Section 41-21-61 et
929 seq., or may order the Department of Human Services or any other
930 public agency to provide for the custody, care and maintenance of
931 such child. Provided, however, that the care, custody and
932 maintenance of such child shall be within the statutory
933 authorization and the budgetary means of such institution or
934 facility.

935 **SECTION 12.** Section 43-21-321, Mississippi Code of 1972, is
936 amended as follows:

937 43-21-321. (1) All juveniles shall undergo a health
938 screening within one (1) hour of admission to any juvenile
939 detention center, or as soon thereafter as reasonably possible.
940 Information obtained during the screening shall include, but shall
941 not be limited to, the juvenile's:

- 942 (a) Mental health;
- 943 (b) Suicide risk;
- 944 (c) Alcohol and other drug use and abuse;
- 945 (d) Physical health;
- 946 (e) Aggressive behavior;
- 947 (f) Family relations;
- 948 (g) Peer relations;
- 949 (h) Social skills;
- 950 (i) Educational status; and
- 951 (j) Vocational status.

952 (2) If the screening instrument indicates that a juvenile is
953 in need of emergency medical care or mental health intervention
954 services, the detention staff shall refer those juveniles to the
955 proper health care facility or mental health service provider for
956 further evaluation, as soon as reasonably possible. If a juvenile
957 has been screened by an instrument, such as the Massachusetts
958 Youth Screening Instrument version 2 (MAYSI-2) or other comparable
959 mental health screening instruments, and it is determined that the
960 child needs further assessment by an appropriate mental health
961 professional, the child shall be referred within forty-eight (48)
962 hours, excluding Saturdays, Sundays and statutory state holidays
963 to a comprehensive community-based program.

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

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

- 971 (a) Determine that the juvenile is legally committed to
972 the facility;
- 973 (b) Make a complete search of the juvenile and his
974 possessions;

- 975 (c) Dispose of personal property;
- 976 (d) Require shower and hair care, if necessary;
- 977 (e) Issue clean, laundered clothing, as needed;
- 978 (f) Issue personal hygiene articles;
- 979 (g) Perform medical, dental and mental health
980 screening;
- 981 (h) Assign a housing unit for the juvenile;
- 982 (i) Record basic personal data and information to be
983 used for mail and visiting lists;
- 984 (j) Assist juveniles in notifying their families of
985 their admission and procedures for mail and visiting;
- 986 (k) Assign a registered number to the juvenile; and
- 987 (l) Provide written orientation materials to the
988 juvenile.

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

- 991 (a) An educational program;
- 992 (b) A visitation program with parents and guardians;
- 993 (c) Private communications with visitors and staff;
- 994 (d) Counseling;
- 995 (e) Continuous supervision of living units;
- 996 (f) Medical service;
- 997 (g) Food service;
- 998 (h) Recreation and exercise program; and
- 999 (i) Reading materials.

1000 (6) Programs and services shall be initiated for all
1001 juveniles once they have completed the admissions process.

1002 (7) Programs and professional services may be provided by
1003 the detention staff, youth court staff or the staff of the local
1004 or state agencies, or those programs and professional services may
1005 be provided through contractual arrangements with community
1006 agencies.

1007 (8) Persons providing the services required in this section
1008 must be qualified or trained in their respective fields.

1009 (9) All directors of juvenile detention centers shall amend
1010 or develop written procedures to fit the programs and services
1011 described in this section.

1012 **SECTION 13.** Section 43-21-605, Mississippi Code of 1972, is
1013 amended as follows:

1014 43-21-605. (1) In delinquency cases, the disposition order
1015 may include any of the following alternatives:

1016 (a) Release the child without further action;

1017 (b) Place the child in the custody of the parents, a
1018 relative or other persons subject to any conditions and
1019 limitations, including restitution, as the youth court may
1020 prescribe;

1021 (c) Place the child on probation subject to any
1022 reasonable and appropriate conditions and limitations, including
1023 restitution, as the youth court may prescribe;

1024 (d) Order terms of treatment calculated to assist the
1025 child and the child's parents or guardian which are within the
1026 ability of the parent or guardian to perform;

1027 (e) Order terms of supervision which may include
1028 participation in a constructive program of service or education or
1029 civil fines not in excess of Five Hundred Dollars (\$500.00), or
1030 restitution not in excess of actual damages caused by the child to
1031 be paid out of his own assets or by performance of services
1032 acceptable to the victims and approved by the youth court and
1033 reasonably capable of performance within one (1) year;

1034 (f) Suspend the child's driver's license by taking and
1035 keeping it in custody of the court for not more than one (1) year;

1036 (g) Give legal custody of the child to any of the
1037 following:

1038 (i) The Department of Human Services for
1039 appropriate placement; or

1040 (ii) Any public or private organization,
1041 preferably community-based, able to assume the education, care and
1042 maintenance of the child, which has been found suitable by the
1043 court; or

1044 (iii) The Department of Human Services for
1045 placement in a wilderness training program or the Division of
1046 Youth Services for placement in a state-supported juvenile justice
1047 center, except that no child under the age of ten (10) years shall
1048 be committed to a juvenile justice center, and no first-time
1049 nonviolent youth offenders shall be committed to a juvenile
1050 justice center until all other options provided for in this
1051 subparagraph have been utilized. The juvenile justice center may
1052 retain custody of the child until the child's twentieth birthday
1053 but for no longer unless the child is under dual jurisdiction
1054 proceedings as authorized under Section 43-21-157(10). When the
1055 child is committed to a juvenile justice center, the child shall
1056 remain in the legal custody of the center for a minimum of five
1057 and one-half (5-1/2) months or one (1) full public school
1058 semester. However, the superintendent of a juvenile justice
1059 center may parole a child at any time he may deem it in the best
1060 interest and welfare of such child, after the child has been in
1061 the custody of a juvenile justice center for a minimum of five and
1062 one-half (5-1/2) months or one (1) full public school semester.
1063 If a child is committed to a juvenile justice center during a
1064 summer break of a public school year, then the child shall not be
1065 released until the beginning of the winter term. Twenty (20) days
1066 prior to such parole, the juvenile justice center shall notify the
1067 committing court of the pending release. The youth court may then
1068 arrange subsequent placement after a reconvened disposition
1069 hearing, except that the youth court may not recommit the child to
1070 the juvenile justice center or any other secure facility without
1071 an adjudication of a new offense or probation or parole violation.
1072 Prior to assigning the custody of any child to any private

1073 institution or agency, the youth court through its designee shall
1074 first inspect the physical facilities to determine that they
1075 provide a reasonable standard of health and safety for the child.
1076 The youth court shall not place a child in the custody of
1077 a juvenile justice center for the following: curfew violation,
1078 malicious mischief, incorrigibility, running away, contempt of
1079 court for any underlying status offense, possession of marijuana
1080 without intent to distribute, alcohol related offenses, truancy or
1081 any other nonviolent offense;

1082 (h) Recommend to the child and the child's parents or
1083 guardian that the child attend and participate in the Youth
1084 Challenge Program under the Mississippi National Guard, as created
1085 in Section 43-27-203, subject to the selection of the child for
1086 the program by the National Guard; however, the child must
1087 volunteer to participate in the program. The youth court shall
1088 not order any child to apply or attend the program;

1089 (i) Adjudicate the juvenile to the Statewide
1090 Juvenile Work Program if the program is established in the court's
1091 jurisdiction. The juvenile and his parents or guardians must sign
1092 a waiver of liability in order to participate in the work program.
1093 The judge will coordinate with the youth services counselors as to
1094 placing participants in the work program;

1095 (ii) The severity of the crime, whether or not the
1096 juvenile is a repeat offender or is a felony offender will be
1097 taken into consideration by the judge when adjudicating a juvenile
1098 to the work program. The juveniles adjudicated to the work
1099 program will be supervised by police officers or reserve officers.
1100 The term of service will be from twenty-four (24) to one hundred
1101 twenty (120) hours of community service. A juvenile will work the
1102 hours to which he was adjudicated on the weekends during school
1103 and weekdays during the summer. Parents are responsible for a
1104 juvenile reporting for work. Noncompliance with an order to
1105 perform community service will result in a heavier adjudication.

1106 A juvenile may be adjudicated to the community service program
1107 only two (2) times;

1108 (iii) The judge shall assess an additional fine on
1109 the juvenile which will be used to pay the costs of implementation
1110 of the program and to pay for supervision by police officers and
1111 reserve officers. The amount of the fine will be based on the
1112 number of hours to which the juvenile has been adjudicated;

1113 (k) Order the child to participate in a youth court
1114 work program as provided in Section 43-21-627; or

1115 (l) Order the child into a juvenile detention center
1116 operated by the county or into a juvenile detention center
1117 operated by any county with which the county in which the court is
1118 located has entered into a contract for the purpose of housing
1119 delinquents. The time period for such detention cannot exceed
1120 sixty (60) days. The youth court judge may order that the number
1121 of days specified in the detention order be served either
1122 throughout the week or on weekends only.

1123 (2) In addition to any of the disposition alternatives
1124 authorized under subsection (1) of this section, the disposition
1125 order in any case in which the child is adjudicated delinquent for
1126 an offense under Section 63-11-30 shall include an order denying
1127 the driver's license and driving privileges of the child as
1128 required under subsection (8) of Section 63-11-30.

1129 (3) If the youth court places a child in a state-supported
1130 training school, the court may order the parents or guardians of
1131 the child and other persons living in the child's household to
1132 receive counseling and parenting classes for rehabilitative
1133 purposes while the child is in the legal custody of the training
1134 school. A youth court entering an order under this subsection (3)
1135 shall utilize appropriate services offered either at no cost or
1136 for a fee calculated on a sliding scale according to income unless
1137 the person ordered to participate elects to receive other

1138 counseling and classes acceptable to the court at the person's
1139 sole expense.

1140 (4) Fines levied under this chapter shall be paid into the
1141 general fund of the county but, in those counties wherein the
1142 youth court is a branch of the municipal government, it shall be
1143 paid into the municipal treasury.

1144 (5) Any institution or agency to which a child has been
1145 committed shall give to the youth court any information concerning
1146 the child as the youth court may at any time require.

1147 (6) The youth court shall not place a child in another
1148 school district who has been expelled from a school district for
1149 the commission of a violent act. For the purpose of this
1150 subsection, "violent act" means any action which results in death
1151 or physical harm to another or an attempt to cause death or
1152 physical harm to another.

1153 (7) The youth court may require drug testing as part of a
1154 disposition order. If a child tests positive, the court may
1155 require treatment, counseling and random testing, as it deems
1156 appropriate. The costs of such tests shall be paid by the parent,
1157 guardian or custodian of the child unless the court specifically
1158 finds that the parent, guardian or custodian is unable to pay.

1159 **SECTION 14.** Section 43-27-8, Mississippi Code of 1972, is
1160 amended as follows:

1161 43-27-8. The Department of Human Services, shall administer
1162 the following duties and responsibilities through the Division of
1163 Youth Services:

1164 (a) To implement and administer laws and policy
1165 relating to youth services and coordinate the efforts of the
1166 department with those of the federal government and other state
1167 departments and agencies, county governments, municipal
1168 governments and private agencies concerned with providing youth
1169 services.

1170 * * *

1171 **(b)** To promulgate and publish such rules, regulations
1172 and policies of the department as are needed for the efficient
1173 government and maintenance of all * * * programs in accord,
1174 insofar as possible, with currently accepted standards of juvenile
1175 care and treatment.

1176 **SECTION 15.** Section 43-27-20, Mississippi Code of 1972, is
1177 amended as follows:

1178 43-27-20. **(1)** Within the Division of Youth Services there
1179 shall be a Division of Community Services, which shall be headed
1180 by a director appointed by and responsible to the Director of the
1181 Division of Youth Services. He shall hold a master's degree in
1182 social work or a related field and shall have no less than three
1183 (3) years' experience in social services, or in lieu of that
1184 degree and experience, he shall have a minimum of eight (8) years'
1185 experience in social work or a related field. He shall employ and
1186 assign the community workers to serve in the various areas in the
1187 state and any other supporting personnel necessary to carry out
1188 the duties of the Division of Community Services.

1189 **(2)** The Director of the Division of Community Services shall
1190 assign probation and aftercare workers to the youth court or
1191 family court judges of the various court districts upon the
1192 request of the individual judge on the basis of case load and
1193 need, when funds are available. The probation and aftercare
1194 workers shall live in their respective districts except upon
1195 approval of the Director of the Division of Community Services.
1196 The Director of the Division of Community Services is authorized
1197 to assign a youth services counselor to a district other than the
1198 district in which the youth services counselor lives upon the
1199 approval of the youth court judge of the assigned district and the
1200 Director of the Division of Youth Services. Every placement shall
1201 be with the approval of the youth court or the family court judge,
1202 and a probation and aftercare worker may be removed for cause from
1203 a youth or family court district.

1204 (3) Any counties or cities which, on July 1, 1973, have
1205 court counselors or similar personnel may continue using this
1206 personnel or may choose to come within the statewide framework.

1207 (4) A probation and aftercare worker may be transferred by
1208 the division from one court to another after consultation with the
1209 judge or judges in the court to which the employee is currently
1210 assigned.

1211 (5) The Office of Community Services shall have such duties
1212 as the Division of Youth Services assigns to it, which shall
1213 include, but not be limited to, the following:

1214 (a) Preparing the social, educational and home-life
1215 history and other diagnostic reports on the child for the benefit
1216 of the court or a juvenile justice center under the jurisdiction
1217 of the Division of Youth Services; however, this provision shall
1218 not abridge the power of the court to require similar services
1219 from other agencies, according to law.

1220 (b) Serving in counseling capacities with the youth or
1221 family courts.

1222 (c) Serving as probation agents for the youth or family
1223 courts.

1224 (d) Serving, advising and counseling of children in the
1225 various facilities under the jurisdiction of the Division of Youth
1226 Services as may be necessary to the placement of the children in
1227 proper environment after release and the placement of children in
1228 suitable jobs where necessary and proper.

1229 (e) Supervising and guiding of children released or
1230 conditionally released from facilities under the jurisdiction of
1231 the Division of Youth Services.

1232 (f) Counseling in an aftercare program.

1233 (g) Coordinating the activities of supporting community
1234 agencies which aid in the social adjustment of children released
1235 from the facility and in an aftercare program.

1236 (h) Providing or arranging for necessary services
1237 leading to the rehabilitation of delinquents, either within the
1238 division or through cooperative arrangements with other
1239 appropriate agencies.

1240 (i) Providing counseling and supervision for any child
1241 under ten (10) years of age who has been brought to the attention
1242 of the court when other suitable personnel is not available and
1243 upon request of the court concerned.

1244 (j) Supervising the aftercare program and making
1245 revocation investigations at the request of the court.

1246 (k) This section shall stand repealed on July 1, 2009.

1247 **SECTION 16.** Section 43-27-201, Mississippi Code of 1972, is
1248 amended as follows:

1249 43-27-201. (1) The purpose of this section is to outline
1250 and structure a long-range proposal in addition to certain
1251 immediate objectives for improvements in the juvenile correctional
1252 facilities of the Division of Youth Services of the Mississippi
1253 Department of Human Services in order to provide modern and
1254 efficient correctional and rehabilitation facilities for juvenile
1255 offenders in Mississippi, who are committing an increasing
1256 percentage of serious and violent crimes.

1257 (2) The Department of Finance and Administration, acting
1258 through the Bureau of Building, Grounds and Real Property
1259 Management, using funds from bonds issued under this chapter,
1260 monies appropriated by the Legislature for such purposes, federal
1261 matching or other federal funds, federal grants or other available
1262 funds from whatever source, shall provide for, by construction,
1263 lease, lease-purchase or otherwise, and equip the following
1264 juvenile correctional facilities under the jurisdiction and
1265 responsibility of the Division of Youth Services of the Department
1266 of Human Services:

1267 (a) Construct an additional one-hundred-fifty-bed,
1268 stand-alone, medium security juvenile correctional facility for

1269 habitual violent male offenders, which complies with American
1270 Correctional Association Accreditation standards and applicable
1271 building and fire safety codes. The medium security, male
1272 juvenile facility location shall be on property owned by the
1273 Division of Youth Services, or its successor, or at a site
1274 selected by the Bureau of Building, Grounds and Real Property
1275 Management on land which is hereafter donated to the state
1276 specifically for the location of such facility.

1277 (b) Construct an additional one-hundred-bed minimum
1278 security juvenile correctional facility for female offenders, and
1279 an additional stand-alone, fifteen-bed maximum security juvenile
1280 correctional facility for female offenders, which complies with
1281 American Correctional Association Accreditation standards and
1282 applicable building and fire safety codes. The minimum security
1283 and maximum security female juvenile facilities location shall be
1284 on property owned by the Division of Youth Services, or its
1285 successor, or at a site selected by the Bureau of Building,
1286 Grounds and Real Property Management on land which is hereafter
1287 donated to the state specifically for the location of such
1288 facility.

1289 (3) Upon the selection of a proposed site for a correctional
1290 facility for juveniles authorized under subsection (2), the Bureau
1291 of Building, Grounds and Real Property Management of the
1292 Department of Finance and Administration shall notify the board of
1293 supervisors of the county in which such facility is proposed to be
1294 located and shall publish a notice as hereinafter set forth in a
1295 newspaper having general circulation in such county. Such notice
1296 shall include a description of the tract of land in the county
1297 whereon the facility is proposed to be located, the nature and
1298 size of the facility and the date on which the determination of
1299 the Bureau of Building, Grounds and Real Property Management shall
1300 be final as to the location of such facility, which date shall not
1301 be less than forty-five (45) days following the first publication

1302 of such notice. Such notice shall include a brief summary of the
1303 provisions of this section pertaining to the petition for an
1304 election on the question of the location of the juvenile housing
1305 facility in such county. Such notice shall be published not less
1306 than one (1) time each week for at least three (3) consecutive
1307 weeks in at least one (1) newspaper published in such county.

1308 If no petition requesting an election is filed before the
1309 date of final determination stated in such notice, then the bureau
1310 shall give final approval to the location of such facility.

1311 If at any time before the aforesaid date a petition signed by
1312 twenty percent (20%), or fifteen hundred (1,500), whichever is
1313 less, of the qualified electors of the county involved shall be
1314 filed with the board of supervisors requesting that an election be
1315 called on the question of locating such facility, then the board
1316 of supervisors shall adopt a resolution calling an election to be
1317 held within such county upon the question of the location of such
1318 facility. Such election shall be held, as far as practicable, in
1319 the same manner as other elections are held in counties. At such
1320 election, all qualified electors of the county may vote, and the
1321 ballots used at such election shall have printed thereon a brief
1322 statement of the facility to be constructed and the words "For the
1323 construction of the facility in (here insert county name) County"
1324 and "Against the construction of the facility in (here insert
1325 county name) County." The voter shall vote by placing a cross (X)
1326 or check mark (✓) opposite his choice on the proposition. When
1327 the results of the election on the question of the construction of
1328 the facility shall have been canvassed by the election
1329 commissioners of the county and certified by them to the board of
1330 supervisors, it shall be the duty of the board of supervisors to
1331 determine and adjudicate whether or not a majority of the
1332 qualified electors who voted thereon in such election voted in
1333 favor of the construction of the facilities in such county.
1334 Unless a majority of the qualified electors who voted in such

1335 election shall have voted in favor of the construction of the
1336 facilities in such county, then such facility shall not be
1337 constructed in such county.

1338 (4) The Division of Youth Services shall establish, maintain
1339 and operate an Adolescent Offender Program (AOP), which may
1340 include non-Medicaid assistance eligible juveniles. Beginning
1341 July 1, 2006, the Division of Youth Services shall phase in AOPs
1342 in every county of the state over a period of four (4) years. The
1343 phase-in of the AOPs shall be as follows:

1344 (a) As of July 1, 2007, all counties shall have at
1345 least one (1) AOP in the Second Congressional District;

1346 (b) As of July 1, 2008, all counties shall have at
1347 least one (1) AOP in the Fourth Congressional District;

1348 (c) As of July 1, 2009, all counties shall have at
1349 least one (1) AOP in the Third Congressional District; and

1350 (d) As of July 1, 2010, all counties shall have at
1351 least one (1) AOP in the First Congressional District.

1352 AOP professional services, salaries, facility offices,
1353 meeting rooms and related supplies and equipment may be provided
1354 through contract with local mental health or other nonprofit
1355 community organizations.

1356 (5) The Division of Youth Services shall operate and
1357 maintain the Forestry Camp Number 43 at the Columbia Training
1358 School, originally authorized and constructed in 1973, to consist
1359 of a twenty-bed dormitory, four (4) offices, a classroom, kitchen,
1360 dining room, day room and apartment. The purpose of this camp
1361 shall be to train juvenile detention residents for community
1362 college and other forestry training programs.

1363 (6) The Division of Youth Services shall establish a ten-bed
1364 transitional living facility for the temporary holding of training
1365 school adolescents who have reached their majority, have completed
1366 the GED requirement, and are willing to be rehabilitated until
1367 they are placed in jobs, job training or postsecondary programs.

1368 Such transitional living facility may be operated pursuant to
1369 contract with a nonprofit community support organization.

1370 **SECTION 17.** Section 43-27-203, Mississippi Code of 1972, is
1371 amended as follows:

1372 43-27-203. (1) There is created under the Mississippi
1373 National Guard a program to be known as the "Youth Challenge
1374 Program." The program shall be an interdiction program designed
1375 for children determined to be "at risk" by the National Guard.
1376 Beginning July 1, 2006, the Youth Challenge Program shall be under
1377 the jurisdiction of the Division of Youth Services, and the
1378 National Guard must report to the Board of the Division of Youth
1379 Services as it relates to the Youth Challenge Program.

1380 (2) The Mississippi National Guard shall implement and
1381 administer the Youth Challenge Program and shall promulgate rules
1382 and regulations concerning the administration of the program. The
1383 National Guard shall prepare written guidelines concerning the
1384 nomination and selection process of participants in the program,
1385 and such guidelines shall include a list of the factors considered
1386 in the selection process.

1387 (3) Participation in the Youth Challenge Program shall be on
1388 a voluntary basis. No child may be sentenced by any court to
1389 participate in the program; however, a youth court judge may refer
1390 the program to a child when, under his determination, such program
1391 would be sufficient to meet the needs of the child.

1392 (4) The Mississippi National Guard, under the auspices of
1393 the Challenge Academy, may award an adult high school diploma to
1394 each participant who meets the requirements for a general
1395 educational development (GED) equivalent under the policies and
1396 guidelines of the GED Testing Service of the American Council on
1397 Education and any other minimum academic requirements prescribed
1398 by the National Guard and Challenge Academy for graduation from
1399 the Youth Challenge Program. Participants in the program who do
1400 not meet the minimum academic requirements may be awarded a

1401 special certificate of attendance. The Mississippi National Guard
1402 and the Challenge Academy shall establish rules and regulations
1403 for awarding the adult high school diploma and shall prescribe the
1404 form for such diploma and the certificate of attendance.

1405 (5) The Mississippi National Guard may accept any available
1406 funds that may be used to defray the expenses of the program
1407 including, but not limited to, federal funding, public or private
1408 funds and any funds that may be appropriated by the Legislature
1409 for that purpose; however, all funding for the Youth Challenge
1410 Program shall be under the jurisdiction of the Division of Youth
1411 Services.

1412 **SECTION 18.** Section 43-27-401, Mississippi Code of 1972, is
1413 amended as follows:

1414 43-27-401. (1) The Department of Human Services, Division
1415 of Youth Services, shall establish a pilot program to be known as
1416 the "Amer-I-Can Program." The program is designed for youths who
1417 have been committed to or are confined in Columbia or Oakley
1418 Training Schools. The objectives of this program are:

1419 (a) To develop greater self-esteem, assume responsible
1420 attitudes and experience a restructuring of habits and
1421 conditioning processes;

1422 (b) To develop an appreciation of family members and an
1423 understanding of the role family structure has in achieving
1424 successful living;

1425 (c) To develop an understanding of the concept of
1426 community and collective responsibility;

1427 (d) To develop a prowess in problem solving and
1428 decision making that will eliminate many of the difficulties that
1429 were encountered in past experiences;

1430 (e) To develop skills in money management and financial
1431 stability, thus relieving pressures that have contributed to
1432 previous difficulties;

1433 (f) To develop communication skills to better express
1434 thoughts and ideas while acquiring an understanding of and respect
1435 for the thoughts and ideas of others; and

1436 (g) To acquire employment seeking and retention skills
1437 to improve chances of long term, gainful employment.

1438 (2) The Division of Youth Services shall develop policies
1439 and procedures to administer the program and shall choose which
1440 youths are eligible to participate in the program.

1441 (3) The department may accept any funds, public or private,
1442 made available to it for the program.

1443 * * *

1444 **SECTION 19.** Section 47-5-138, Mississippi Code of 1972, is
1445 amended as follows:

1446 47-5-138. (1) The department may promulgate rules and
1447 regulations to carry out an earned time allowance program based on
1448 the good conduct and performance of an inmate. An inmate is
1449 eligible to receive an earned time allowance of one-half (1/2) of
1450 the period of confinement imposed by the court except those
1451 inmates excluded by law. When an inmate is committed to the
1452 custody of the department, the department shall determine a
1453 conditional earned time release date by subtracting the earned
1454 time allowance from an inmate's term of sentence. This subsection
1455 does not apply to any sentence imposed after June 30, 1995.

1456 (2) An inmate may forfeit all or part of his earned time
1457 allowance for a serious violation of rules. No forfeiture of the
1458 earned time allowance shall be effective except upon approval of
1459 the commissioner or his designee, and forfeited earned time may
1460 not be restored.

1461 (3) (a) For the purposes of this subsection, "final order"
1462 means an order of a state or federal court that dismisses a
1463 lawsuit brought by an inmate while the inmate was in the custody
1464 of the Department of Corrections as frivolous, malicious or for
1465 failure to state a claim upon which relief could be granted.

1466 (b) On receipt of a final order, the department shall
1467 forfeit:

1468 (i) Sixty (60) days of an inmate's accrued earned
1469 time if the department has received one (1) final order as defined
1470 herein;

1471 (ii) One hundred twenty (120) days of an inmate's
1472 accrued earned time if the department has received two (2) final
1473 orders as defined herein;

1474 (iii) One hundred eighty (180) days of an inmate's
1475 accrued earned time if the department has received three (3) or
1476 more final orders as defined herein.

1477 (c) The department may not restore earned time
1478 forfeited under this subsection.

1479 (4) An inmate who meets the good conduct and performance
1480 requirements of the earned time allowance program may be released
1481 on his conditional earned time release date.

1482 (5) For any sentence imposed after June 30, 1995, an inmate
1483 may receive an earned time allowance of four and one-half (4-1/2)
1484 days for each thirty (30) days served if the department determines
1485 that the inmate has complied with the good conduct and performance
1486 requirements of the earned time allowance program. The earned
1487 time allowance under this subsection shall not exceed fifteen
1488 percent (15%) of an inmate's term of sentence; however, beginning
1489 July 1, 2006, no person under the age of twenty-one (21) who has
1490 committed a nonviolent offense, and who is under the jurisdiction
1491 of the Department of Corrections, shall be subject to the fifteen
1492 percent (15%) limitation for earned time allowances as described
1493 in this subsection (5).

1494 (6) Any inmate, who is released before the expiration of his
1495 term of sentence under this section, shall be placed under
1496 earned-release supervision until the expiration of the term of
1497 sentence. The inmate shall retain inmate status and remain under
1498 the jurisdiction of the department. The period of earned-release

1499 supervision shall be conducted in the same manner as a period of
1500 supervised parole. The department shall develop rules, terms and
1501 conditions for the earned-release supervision program. The
1502 commissioner shall designate the appropriate hearing officer
1503 within the department to conduct revocation hearings for inmates
1504 violating the conditions of earned-release supervision.

1505 (7) If the earned-release supervision is revoked, the inmate
1506 shall serve the remainder of the sentence and the time the inmate
1507 was on earned-release supervision, shall not be applied to and
1508 shall not reduce his sentence.

1509 **SECTION 20.** Section 47-5-151, Mississippi Code of 1972, is
1510 amended as follows:

1511 47-5-151. The superintendent (warden) or other person in
1512 charge of prisoners, upon the death of any prisoner under his care
1513 and control, shall at once notify the county medical examiner or
1514 county medical examiner investigator (hereinafter "medical
1515 examiner") of the county in which the prisoner died, of the death
1516 of the prisoner, and it shall be the duty of such medical
1517 examiner, when so notified of the death of such person, to obtain
1518 a court order and notify the State Medical Examiner of the death
1519 of such prisoner. It shall be mandatory that the State Medical
1520 Examiner cause an autopsy to be performed upon the body of the
1521 deceased prisoner. Furthermore, the State Medical Examiner shall
1522 investigate any case where a person is found dead on the premises
1523 of the correctional system, in accordance with Sections 41-61-51
1524 through 41-61-79. The State Medical Examiner shall make a written
1525 report of his investigation, and shall furnish a copy of the same,
1526 including the autopsy report, to the superintendent (warden) and a
1527 copy of the same to the district attorney of the county in which
1528 the prisoner died. The copy so furnished to the district attorney
1529 shall be turned over by the district attorney to the grand jury,
1530 and it shall be the duty of the grand jury, if there be any

1531 suspicion of wrongdoing shown by the inquest papers, to thoroughly
1532 investigate the cause of such death.

1533 It shall be the duty of the medical examiner of the county in
1534 which the prisoner died to arrange for the remains to be
1535 transported to the State Medical Examiner for the autopsy, and
1536 accompanying the remains shall be the court order for autopsy and
1537 any documents or records pertaining to the deceased prisoner,
1538 institutional health records or other information relating to the
1539 circumstances surrounding the prisoner's death. The State Medical
1540 Examiner shall arrange for the remains to be transported to the
1541 county in which the prisoner died following completion of the
1542 autopsy. If the remains are not claimed for burial within
1543 forty-eight (48) hours after autopsy, then the remains may be
1544 delivered to the University of Mississippi Medical Center for use
1545 in medical research or anatomical study.

1546 The provisions herein set forth in the first paragraph shall
1547 likewise apply to any case in which any person is found dead on
1548 the premises of the Mississippi State Penitentiary, except that
1549 the autopsy to be performed on the body of such a person shall not
1550 be mandatory upon a person who is not a prisoner unless the
1551 medical examiner determines that the death resulted from
1552 circumstances raising questions as to the cause of death, in which
1553 case the medical examiner may cause an autopsy to be performed
1554 upon the body of such deceased person in the same manner as
1555 authorized to be performed upon the body of a deceased prisoner.

1556 * * * The provisions of this section shall apply with
1557 respect to any deceased prisoner who at the time of death is being
1558 detained by duly constituted state authority such as the Columbia
1559 Training School, Oakley Training School, Mississippi State
1560 Hospital at Whitfield, East Mississippi State Hospital, or any
1561 other state institution.

1562 The provisions of this section shall not apply to a prisoner
1563 who was lawfully executed as provided in Sections 99-19-49 through
1564 99-19-55.

1565 Any officer or employee of the prison system or any other
1566 officer, employee or person having charge of any prisoner who
1567 shall fail to immediately notify the medical examiner of the death
1568 of such prisoner, shall be guilty of a misdemeanor and, upon
1569 conviction thereof, shall be punished by a fine of not less than
1570 One Hundred Dollars (\$100.00) nor more than Five Hundred dollars
1571 (\$500.00) and by confinement in the county jail for not more than
1572 one (1) year.

1573 **SECTION 21.** Section 47-7-45, Mississippi Code of 1972, is
1574 brought forward as follows:

1575 47-7-45. The provisions of this chapter shall not apply to
1576 probation under the Youth Court Law nor to parole from the
1577 Columbia Training School and the Oakley Training School.

1578 **SECTION 22.** Section 65-1-37, Mississippi Code of 1972, is
1579 amended as follows:

1580 65-1-37. The Mississippi Transportation Commission is hereby
1581 authorized and empowered to have the Mississippi Department of
1582 Transportation construct, repair and maintain the driveways and
1583 streets on the grounds of the universities and colleges under the
1584 jurisdiction of the Board of Trustees of * * * State Institutions
1585 of Higher Learning, state, and/or county supported junior
1586 colleges, the state hospitals, and institutions under the
1587 jurisdiction of the Department of Mental Health, the Board of
1588 Trustees of the Columbia Training School and Oakley Training
1589 School, the Mississippi Schools for the Deaf and Blind, and the
1590 Mississippi Department of Wildlife, Fisheries and Parks in the
1591 manner provided herein, including bypasses to connect those
1592 driveways and streets with roads on the state highway system, and
1593 the main thoroughfare running east and west through the grounds of
1594 the Mississippi Penitentiary, provided that the institutions

1595 obtain the necessary rights-of-way, those institutions being * * *
1596 authorized so to do by this section.

1597 The Transportation Commission and the governing boards of the
1598 institutions shall enter into an agreement prior to undertaking
1599 any of the work mentioned in the first paragraph of this section,
1600 and the agreement shall be based on the Transportation
1601 Department's furnishing equipment, equipment operators, skilled
1602 labor, supervision, and engineering services, and the governing
1603 bodies of the aforementioned institutions shall furnish material,
1604 supplies and common labor. This agreement shall further provide
1605 for reimbursement of the Mississippi Department of Transportation,
1606 in full, for the expenditures incurred in the construction, repair
1607 and maintenance of driveways and streets at the institutions
1608 hereinabove mentioned, such reimbursement to be made directly to
1609 the Mississippi Transportation Commission from the institutions.
1610 Upon the execution of an agreement as set out herein, the
1611 Mississippi Department of Transportation may provide all the
1612 necessary engineering, supervision, skilled labor, equipment, and
1613 equipment operators to perform such work.

1614 **SECTION 23.** Section 99-43-3, Mississippi Code of 1972, is
1615 amended as follows:

1616 99-43-3. As used in this chapter, the following words shall
1617 have the meanings ascribed to them unless the context clearly
1618 requires otherwise:

1619 (a) "Accused" means a person who has been arrested for
1620 committing a criminal offense and who is held for an initial
1621 appearance or other proceeding before trial or who is a target of
1622 an investigation for committing a criminal offense.

1623 (b) "Appellate proceeding" means an oral argument held
1624 in open court before the Mississippi Court of Appeals, the
1625 Mississippi Supreme Court, a federal court of appeals or the
1626 United States Supreme Court.

1627 (c) "Arrest" means the actual custodial restraint of a
1628 person or his submission to custody.

1629 (d) "Community status" means extension of the limits of
1630 the places of confinement of a prisoner through work release,
1631 intensive supervision, house arrest and initial consideration of
1632 pre-discretionary leave, passes and furloughs.

1633 (e) "Court" means all state courts including juvenile
1634 courts.

1635 (f) "Victim assistance coordinator" means a person who
1636 is employed or authorized by a public entity or a private entity
1637 that receives public funding primarily to provide counseling,
1638 treatment or other supportive assistance to crime victims.

1639 (g) "Criminal offense" means conduct that gives a law
1640 enforcement officer or prosecutor probable cause to believe that a
1641 felony involving physical injury, the threat of physical injury, a
1642 sexual offense, any offense involving spousal abuse or domestic
1643 violence has been committed.

1644 (h) "Criminal proceeding" means a hearing, argument or
1645 other matter scheduled by and held before a trial court but does
1646 not include a lineup, grand jury proceeding or other matter not
1647 held in the presence of the court.

1648 (i) "Custodial agency" means a municipal or county
1649 jail, the Department of Corrections, juvenile detention facility,
1650 Division of Youth Services or a secure mental health facility
1651 having custody of a person who is arrested or is in custody for a
1652 criminal offense.

1653 (j) "Defendant" means a person or entity that is
1654 formally charged by complaint, indictment or information of
1655 committing a criminal offense.

1656 (k) "Final disposition" means the ultimate termination
1657 of the criminal prosecution of a defendant by a trial court,
1658 including dismissal, acquittal or imposition of a sentence.

1659 (1) "Immediate family" means the spouse, parent, child,
1660 sibling, grandparent or guardian of the victim, unless that person
1661 is in custody for an offense or is the accused.

1662 (m) "Lawful representative" means a person who is a
1663 member of the immediate family or who is designated as provided in
1664 Section 99-43-5; no person in custody for an offense or who is the
1665 accused may serve as lawful representative.

1666 (n) "Post-arrest release" means the discharge of the
1667 accused from confinement on recognizance, bond or other condition.

1668 (o) "Post-conviction release" means parole or discharge
1669 from confinement by an agency having custody of the prisoner.

1670 (p) "Post-conviction relief proceeding" means a
1671 hearing, argument or other matter that is held in any court and
1672 that involves a request for relief from a conviction, sentence or
1673 adjudication.

1674 (q) "Prisoner" means a person who has been convicted or
1675 adjudicated of a criminal offense against a victim and who has
1676 been sentenced to the custody of the sheriff, the Department of
1677 Corrections, Division of Youth Services, juvenile detention
1678 facility, a municipal jail or a secure mental health facility.

1679 (r) "Prosecuting attorney" means the district attorney,
1680 county prosecuting attorney, municipal prosecuting attorney, youth
1681 court prosecuting attorney, special prosecuting attorney or
1682 Attorney General.

1683 (s) "Right" means any right granted to the victim by
1684 the laws of this state.

1685 (t) "Victim" means a person against whom the criminal
1686 offense has been committed, or if the person is deceased or
1687 incapacitated, the lawful representative.

1688 **SECTION 24.** Section 43-21-117, Mississippi Code of 1972, is
1689 brought forward as follows:

1690 43-21-117. (1) The youth court prosecutor shall represent
1691 the petitioner in all proceedings in the youth court.

1692 (2) The county prosecuting attorney shall serve as the youth
1693 court prosecutor; however, if funds are available pursuant to
1694 Section 43-21-123, the court may designate, as provided in
1695 subsection (3) of this section, a prosecutor or prosecutors in
1696 lieu of or in addition to the county prosecuting attorney. Where
1697 there is a municipal youth court division, the city prosecutor
1698 shall serve as youth court prosecutor; provided that the district
1699 attorney may participate in transfer proceedings.

1700 (3) The judge may designate as provided in Section 43-21-123
1701 some suitable attorney or attorneys to serve as youth court
1702 prosecutor or prosecutors in lieu of or in conjunction with the
1703 youth court prosecutor provided in subsection (2) of this section.
1704 The designated youth court prosecutor or prosecutors shall be paid
1705 a fee or salary fixed on order of the judge as provided in Section
1706 43-21-123 and shall be paid by the county out of any available
1707 funds budgeted for the youth court by the board of supervisors,
1708 unless the designated youth court prosecutor or prosecutors serves
1709 in a municipal youth court division, in which case he shall be
1710 paid a fee or salary fixed on order of the judge from the funds
1711 available to the municipality.

1712 (4) All youth court prosecutors and county prosecuting
1713 attorneys who serve as youth court prosecutors shall be required
1714 to receive juvenile justice training approved by the Mississippi
1715 Attorney General's office and regular annual continuing education
1716 in the field of juvenile justice. The Mississippi Attorney
1717 General's office shall determine the amount of juvenile justice
1718 training and annual continuing education which shall be
1719 satisfactory to fulfill the requirements of this subsection. The
1720 Administrative Office of Courts shall maintain a roll of youth
1721 court prosecutors, shall enforce the provisions of this subsection
1722 and shall maintain records on all such youth court prosecutors
1723 regarding such training. Should a youth court prosecutor miss two
1724 (2) consecutive training sessions sponsored by the Mississippi

1725 Attorney General's office as required by this subsection or fail
1726 to attend one (1) such training session within six (6) months of
1727 their designation as youth court prosecutor, the youth court
1728 prosecutor shall be disqualified to serve and be immediately
1729 removed from the office of youth court prosecutor and another
1730 youth court prosecutor shall be designated.

1731 **SECTION 25.** Section 43-21-123, Mississippi Code of 1972, is
1732 amended as follows:

1733 43-21-123. * * * State funds and/or other monies
1734 administered by the Administrative Office of Courts shall
1735 adequately provide funds for the operation of the youth court
1736 division of the chancery court in conjunction with the regular
1737 chancery court budget, or the county or family courts where said
1738 courts are constituted. In preparation for said funding, on an
1739 annual basis at the time requested, the youth court judge or
1740 administrator shall prepare and submit to the Administrative
1741 Office of Courts, an annual budget which will identify the number,
1742 staff position, title and amount of annual or monthly compensation
1743 of each position as well as provide for other expenditures
1744 necessary to the functioning and operation of the youth court.
1745 When the budget of the youth court or youth court judge is
1746 approved by the Administrative Office of Courts, then the youth
1747 court or youth court judge may employ such persons as provided in
1748 the budget from time to time.

1749 The Administrative Office of Courts is authorized to
1750 reimburse the youth court judges and other youth court employees
1751 or personnel for reasonable travel and expenses incurred in the
1752 performance of their duties and in attending educational meetings
1753 offering professional training to such persons as budgeted.

1754 **SECTION 26.** The Governor, on behalf of this state, may
1755 execute a compact in substantially the following form, and the
1756 Legislature signifies in advance its approval and ratification of
1757 the compact:

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THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

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

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

(a) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

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

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

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

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

- 1790 (f) Equitably allocate the costs, benefits and
1791 obligations of the compacting states;
- 1792 (g) Establish procedures to manage the movement between
1793 states of juvenile offenders released to the community under the
1794 jurisdiction of courts, juvenile departments, or any other
1795 criminal or juvenile justice agency that has jurisdiction over
1796 juvenile offenders;
- 1797 (h) Insure immediate notice to jurisdictions where
1798 defined offenders are authorized to travel or to relocate across
1799 state lines;
- 1800 (i) Establish procedures to resolve pending charges
1801 (detainers) against juvenile offenders before transfer or release
1802 to the community under the terms of this compact;
- 1803 (j) Establish a system of uniform data collection on
1804 information pertaining to juveniles subject to this compact that
1805 allows access by authorized juvenile justice and criminal justice
1806 officials, and regular reporting of compact activities to heads of
1807 state executive, judicial, and legislative branches and juvenile
1808 and criminal justice administrators;
- 1809 (k) Monitor compliance with rules governing interstate
1810 movement of juveniles and initiate interventions to address and
1811 correct noncompliance;
- 1812 (l) Coordinate training and education regarding the
1813 regulation of interstate movement of juveniles for officials
1814 involved in that activity; and
- 1815 (m) Coordinate the implementation and operation of the
1816 compact with the Interstate Compact for the Placement of Children,
1817 the Interstate Compact for Adult Offender Supervision and other
1818 compacts affecting juveniles particularly in those cases where
1819 concurrent or overlapping supervision issues arise.

1820 It is the policy of the compacting states that the activities
1821 conducted by the Interstate Commission created by this Compact are
1822 the formation of public policies and therefore are public

1823 business. Furthermore, the compacting states shall cooperate and
1824 observe their individual and collective duties and
1825 responsibilities for the prompt return and acceptance of juveniles
1826 subject to the provisions of this compact. The provisions of this
1827 compact shall be reasonably and liberally construed to accomplish
1828 the purposes and policies of the compact.

1829 **ARTICLE II**

1830 **DEFINITIONS**

1831 As used in this compact, unless the context clearly requires
1832 a different construction:

1833 (a) "Bylaws" means those bylaws established by the
1834 Interstate Commission for its governance, or for directing or
1835 controlling its actions or conduct.

1836 (b) "Compact Administrator" means the individual in
1837 each compacting state appointed under the terms of this compact,
1838 responsible for the administration and management of the state's
1839 supervision and transfer of juveniles subject to the terms of this
1840 compact, the rules adopted by the Interstate Commission and
1841 policies adopted by the State Council under this compact.

1842 (c) "Compacting State" means any state that has enacted
1843 the enabling legislation for this compact.

1844 (d) "Commissioner" means the voting representative of
1845 each compacting state appointed pursuant to Article III of this
1846 compact.

1847 (e) "Court" means any court having jurisdiction over
1848 delinquent, neglected or dependent children.

1849 (f) "Deputy Compact Administrator" means the
1850 individual, if any, in each compacting state appointed to act on
1851 behalf of a compact administrator under the terms of this compact
1852 responsible for the administration and management of the state's
1853 supervision and transfer of juveniles subject to the terms of this
1854 compact, the rules adopted by the Interstate Commission and
1855 policies adopted by the State Council under this compact.

1856 (g) "interstate Commission" means the Interstate
1857 Commission for Juveniles created by Article III of this compact.

1858 (h) "Juvenile" means any person defined as a juvenile
1859 in any member state or by the rules of the Interstate Commission,
1860 including:

1861 (i) Accused Delinquent, which is a person charged
1862 with an offense that, if committed by an adult, would be a
1863 criminal offense;

1864 (ii) Adjudicated Delinquent, which is a person
1865 found to have committed an offense that, if committed by an adult,
1866 would be a criminal offense;

1867 (iii) Accused Status Offender, which is a person
1868 charged with an offense that would not be a criminal offense if
1869 committed by an adult;

1870 (iv) Adjudicated Status Offender, which is a
1871 person found to have committed an offense that would not be a
1872 criminal offense if committed by an adult; and

1873 (v) Nonoffender which is, a person in need of
1874 supervision who has not been accused or adjudicated a status
1875 offender or delinquent.

1876 (i) "Noncompacting state" means any state that has not
1877 enacted the enabling legislation for this compact.

1878 (j) "Probation or Parole" means any kind of supervision
1879 or conditional release of juveniles authorized under the laws of
1880 the compacting states.

1881 (k) "Rules" means a written statement by the Interstate
1882 Commission promulgated under Article VI of this compact that is of
1883 general applicability, implements, interprets or prescribes a
1884 policy or provision of the compact, or an organizational,
1885 procedural, or practice requirement of the Commission, and has the
1886 force and effect of statutory law in a compacting state, and
1887 includes the amendment, repeal or suspension of an existing rule.

1888 (1) "State" means a state of the United States, the
1889 District of Columbia (or its designee), the Commonwealth of Puerto
1890 Rico, the United States Virgin Islands, Guam, American Samoa, and
1891 the Northern Marianas Islands.

1892 **ARTICLE III**

1893 **INTERSTATE COMMISSION FOR JUVENILES**

1894 (1) The compacting states create the "Interstate Commission
1895 for Juveniles." The commission shall be a body corporate and
1896 joint agency of the compacting states. The commission shall have
1897 all the responsibilities, powers and duties set forth in this
1898 compact, and such additional powers as may be conferred upon it by
1899 subsequent action of the respective legislatures of the compacting
1900 states in accordance with the terms of this compact.

1901 (2) The Interstate commission shall consist of commissioners
1902 appointed by the appropriate appointing authority in each state
1903 pursuant to the rules and requirements of each compacting state
1904 and in consultation with the State Council for Interstate Juvenile
1905 Supervision created under this compact. The commissioner shall be
1906 the compact administrator, deputy compact administrator or
1907 designee from that state who shall serve on the Interstate
1908 Commission in such capacity under the applicable law of the
1909 compacting state.

1910 (3) In addition to the commissioners who are the voting
1911 representatives of each state, the Interstate Commission shall
1912 include individuals who are not commissioners, but who are members
1913 of interested organizations. Those noncommissioner members must
1914 include a member of the national organizations of governors,
1915 legislators, state chief justices, attorneys general, Interstate
1916 Compact for Adult Offender for Adult Offender Supervision,
1917 Interstate Compact for the Placement of Children, juvenile justice
1918 and juvenile corrections officials and crime victims. All
1919 noncommissioner members of the Interstate Commission shall be
1920 exofficio nonvoting members. The Interstate Commission may

1921 provide in its bylaws for additional exofficio nonvoting members,
1922 including members of other national organizations, in such numbers
1923 as determined by the commission.

1924 (4) Each compacting state represented at any meeting of the
1925 commission is entitled to one (1) vote. A majority of the
1926 compacting states shall constitute a quorum for the transaction of
1927 business, unless a larger quorum is required by the bylaws of the
1928 Interstate Commission.

1929 (5) The commission shall meet at least once each calendar
1930 year. The chairperson may call additional meetings and, upon the
1931 request of a simple majority of the compacting states, shall call
1932 additional meetings. Public notice shall be given of all meetings
1933 and meetings shall be open to the public.

1934 (6) The Interstate Commission shall establish an executive
1935 committee, which shall include commission officers, members and
1936 others as determined by the bylaws. The executive committee shall
1937 have the power to act on behalf of the Interstate Commission
1938 during periods when the Interstate Commission is not in session,
1939 with the exception of rule-making and/or amendment to the compact.
1940 The executive committee shall oversee the day-to-day activities
1941 of the administration of the compact managed by an executive
1942 director and Interstate Commission staff; administers enforcement
1943 and compliance with the provisions of the compact, its bylaws and
1944 rules and performs such other duties as directed by the Interstate
1945 Commission or set forth in the bylaws.

1946 (7) Each member of the Interstate Commission shall have the
1947 right and power to cast a vote to which that compacting state is
1948 entitled and to participate in the business and affairs of the
1949 Interstate Commission. A member shall vote in person and shall
1950 not delegate a vote to another compacting state. However, a
1951 commissioner, in consultation with the state council, shall
1952 appoint another authorized representative, in the absence of the
1953 commissioner from that state, to cast a vote on behalf of the

1954 compacting state at a specified meeting. The bylaws may provide
1955 for members' participation in meetings by telephone or other means
1956 of telecommunication or electronic communication.

1957 (8) The Interstate Commission's bylaws shall establish
1958 conditions and procedures under which the Interstate Commission
1959 shall make its information and official records available to the
1960 public for inspection or copying. The Interstate Commission may
1961 exempt from disclosure any information or official records to the
1962 extent they would adversely affect personal privacy rights or
1963 proprietary interests.

1964 (9) Public notice shall be given of all meetings and all
1965 meeting shall be open to the public, except as set forth in the
1966 Rules or as otherwise provided in the compact. The Interstate
1967 Commission and any of its committees may close a meeting to the
1968 public where it determines by two-thirds (2/3) vote that an open
1969 meeting would be likely to:

1970 (a) Relate solely to the Interstate Commission's
1971 internal personnel practice and procedures;

1972 (b) Disclose matters specifically exempted from
1973 disclosure by statute;

1974 (c) Disclose trade secrets or commercial or financial
1975 information that is privileged or confidential;

1976 (d) Involve accusing any person of a crime, or formally
1977 censuring any person;

1978 (e) Disclose information of a personal nature where
1979 disclosure would constitute a clearly unwarranted invasion of
1980 personal privacy;

1981 (f) Disclose investigative records compiled for law
1982 enforcement purposes;

1983 (g) Disclose information contained in or related to
1984 examination, operating or condition reports prepared by, or on
1985 behalf of or for the use of, the Interstate Commission with

1986 respect to a regulated person or entity for the purpose of
1987 regulation or supervision of the person or entity;

1988 (h) Disclose information, the premature disclosure of
1989 which would significantly endanger the stability of a regulated
1990 person or entity; or

1991 (i) Specifically relate to the Interstate Commission's
1992 issuance of a subpoena, or its participation in a civil action or
1993 other legal proceeding.

1994 (10) For every meeting closed under this provision, the
1995 Interstate Commission's legal counsel shall publicly certify that,
1996 in the legal counsel's opinion, the meeting may be closed to the
1997 public, and shall reference each relevant exemptive provision.
1998 The Interstate Commission shall keep minutes that shall fully and
1999 clearly describe all matters discussed in any meeting and shall
2000 provide a full and accurate summary of any actions taken, and the
2001 reasons therefor, including a description of each of the views
2002 expressed on any item and the record of any roll call vote
2003 (reflected in the vote of each member on the question). All
2004 documents considered in connection with any action shall be
2005 identified in the minutes.

2006 (11) The Interstate Commission shall collect standardized
2007 data concerning the interstate movement of juveniles as directed
2008 through its rules, which shall specify the data to be collected,
2009 the means of collection, data exchange and reporting requirements.
2010 Those methods of data collection, exchange and reporting shall,
2011 insofar as is reasonably possible, conform to up-to-date
2012 technology and coordinate its information functions with the
2013 appropriate repository of records.

2014 **ARTICLE IV**

2015 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

2016 The commission shall have the following powers and duties:

2017 (a) To provide for dispute resolution among compacting
2018 state.

2019 (b) To promulgate rules to effect the purposes and
2020 obligations as enumerated in this compact, which shall have the
2021 force and effect of statutory law and shall be binding in the
2022 compacting states to the extent and in the manner provided in this
2023 compact.

2024 (c) To oversee, supervise and coordinate the interstate
2025 movement of juveniles subject to the terms of this compact and any
2026 bylaws adopted and rules promulgated by the Interstate Commission.

2027 (d) To enforce compliance with the compact provision,
2028 the rules promulgated by the Interstate commission, and the
2029 bylaws, using all necessary and proper means, including but not
2030 limited to the use of judicial process.

2031 (e) To establish and maintain offices, which shall be
2032 located within one or more of the compacting states.

2033 (f) To purchase and maintain insurance and bonds.

2034 (g) To borrow, accept, hire or contract for services of
2035 personnel.

2036 (h) To establish and appoint committees and hire staff
2037 that it deems necessary for the carrying out of its functions
2038 including, but not limited to, an executive committee as required
2039 by Article III, which shall have the power to act on behalf of the
2040 Interstate Commission in carrying out its powers and duties under
2041 this compact.

2042 (i) To elect or appoint officers, attorneys, employees,
2043 agents or consultants, and to fix their compensation, define their
2044 duties and determine their qualifications; and to establish
2045 the Interstate Commission's personnel policies and programs
2046 relating to, inter alia, conflicts of interest, rates of
2047 compensation and qualifications of personnel.

2048 (j) To accept any and all donations and grants of
2049 money, equipment, supplies, materials and services, and to
2050 receive, utilize and dispose of it.

2051 (k) To lease, purchase, accept contributions or
2052 donations of or otherwise to own, hold, improve or use any
2053 property, real, personal or mixed.

2054 (l) To sell, convey, mortgage, pledge, lease, exchange,
2055 abandon or otherwise dispose of any property, real, personal or
2056 mixed.

2057 (m) To establish a budget and make expenditures and
2058 levy dues as provided in Article VIII of this compact.

2059 (n) To sue and be sued.

2060 (o) To adopt a seal and bylaws governing the management
2061 and operation of the Interstate Commission.

2062 (p) To perform such functions as may be necessary or
2063 appropriate to achieve the purposes of this compact.

2064 (q) To report annually to the legislatures, governors,
2065 judiciary, and state councils of the compacting states concerning
2066 the activities of the Interstate Commission during the preceding
2067 year. Those reports also shall include any recommendations that
2068 may have been adopted by the Interstate Commission.

2069 (r) To coordinate education, training and public
2070 awareness regarding the interstate movement of juveniles for
2071 officials involved in that activity.

2072 (s) To establish uniform standards of the reporting,
2073 collecting and exchanging of data.

2074 (t) To maintain its corporate books and records in
2075 accordance with the bylaws.

2076 **ARTICLE V**

2077 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

2078 (1) **Bylaws.** The Interstate Commission shall, by a majority
2079 of the members present and voting, within twelve (12) months after
2080 the first Interstate Commission meeting, adopt bylaws to govern
2081 its conduct as may be necessary or appropriate to carry out the
2082 purposes of the compact including, but not limited to:

2083 (a) Establishing the fiscal year of the Interstate
2084 Commission;

2085 (b) Establishing an executive committee and such other
2086 committees as may be necessary;

2087 (c) Providing for the establishment of committees
2088 governing any general or specific delegation of any authority or
2089 function of the Interstate Commission;

2090 (d) Providing reasonable procedures for calling and
2091 conducting meetings of the Interstate Commission, and ensuring
2092 reasonable notice of each such meeting;

2093 (e) Establishing the titles and responsibilities of the
2094 officers of the Interstate Commission;

2095 (f) Providing a mechanism for concluding the operations
2096 of the Interstate Commission and the return of any surplus funds
2097 that may exist upon the termination of the compact after the
2098 payment and/or reserving of all of its debts and obligations;

2099 (g) Providing "start-up" rules for initial
2100 administration of the compact; and

2101 (h) Establishing standards and procedures for
2102 compliance and technical assistance in carrying out the compact.

2103 (2) **Officers and Staff.** (a) The Interstate Commission
2104 shall, by a majority of the members, elect annually from among its
2105 members a chairperson and a vice chairperson each of whom shall
2106 have such authority and duties as may be specified in the bylaws.
2107 The chairperson or, in the chairperson's absence or disability,
2108 the vice chairperson shall preside at all meetings of the
2109 Interstate Commission. The officers so elected shall serve
2110 without compensation or remuneration from the Interstate
2111 Commission; however, subject to the availability of budgeted
2112 funds, the officers shall be reimbursed for any ordinary and
2113 necessary costs and expenses incurred by them in the performance
2114 of their duties and responsibilities as officers of the Interstate
2115 Commission.

2116 (b) The Interstate Commission shall, through its
2117 executive committee, appoint or retain an executive director for
2118 such period, upon such terms and conditions and for such
2119 compensation as the Interstate Commission may deem appropriate.
2120 The executive director shall serve as secretary to the Interstate
2121 Commission, but shall not be a member and shall hire and supervise
2122 such other staff as may be authorized by the Interstate
2123 Commission.

2124 (3) **Qualified Immunity, Defense and Indemnification.** (a)
2125 The Commission's executive director and employees shall be immune
2126 from suit and liability, either personally or in their official
2127 capacity, for any claim for damage to or loss of property,
2128 personal injury or other civil liability caused or arising out of
2129 or relating to any actual or alleged act, error, or omission that
2130 occurred, or that the person had a reasonable basis for believing
2131 occurred within the scope of Commission employment, duties or
2132 responsibilities; however, any such person shall not be protected
2133 from suit or liability for any damage, loss, injury or liability
2134 caused by the intentional or willful and wanton misconduct of any
2135 such person.

2136 (b) The liability of any commissioner, or the employee
2137 of agent of a commissioner, acting within the scope of the
2138 person's employment or duties for acts, errors or omissions
2139 occurring within the person's state may not exceed the limits of
2140 liability set forth under the Constitution and laws of that state
2141 for state officials, employees and agents. Nothing in this
2142 subsection shall be construed to protect any such person from suit
2143 or liability for any damage, loss, injury or liability caused by
2144 the intentional or willful and wanton misconduct of any such
2145 person.

2146 (c) The Interstate Commission shall defend the
2147 executive director or the employees or representatives of the
2148 Interstate Commission and, subject to the approval of the Attorney

2149 General of the state represented by any commissioner of a
2150 compacting state, shall defend the commissioner or the
2151 commissioner's representatives or employees in any civil action
2152 seeking to impose liability arising out of any actual or alleged
2153 act, error or omission that occurred within the scope of
2154 Interstate Commission employment, duties or responsibilities, or
2155 that the defendant has a reasonable basis for believing occurred
2156 within the scope of Interstate Commission employment, duties or
2157 responsibilities, provided that the actual or alleged act, error
2158 or omission did not result from intentional or willful and wanton
2159 misconduct on the part of the person.

2160 (d) The Interstate Commission shall indemnify and hold
2161 the commissioner of a compacting state, or the commissioner's
2162 representatives or employees or the Interstate Commission's
2163 representatives or employees, harmless in the amount of any
2164 settlement or judgment obtained against those persons arising out
2165 of any actual or alleged act, error or omission that occurred
2166 within the scope of Interstate Commission employment, duties or
2167 responsibilities, or that those persons had a reasonable basis for
2168 believing occurred within the scope of Interstate Commission
2169 employment, duties or responsibilities, provide that the actual or
2170 alleged act, error or omission did not result from intentional or
2171 willful and wanton misconduct on the part of such persons.

2172 **ARTICLE VI**

2173 **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

2174 (1) The Interstate Commission shall promulgate and publish
2175 rules in order to effectively and efficiently achieve the purposes
2176 of the compact.

2177 (2) Rule making shall occur using the criteria set forth in
2178 this article and the bylaws and rules adopted under this article.
2179 That rule-making shall substantially conform to the principles of
2180 the "Model State Administrative Procedures Act," 1981 Act, Uniform
2181 Laws Annotated, Vol. 15, p.1 (2000), or such other administrative

2182 procedures act, as the Interstate Commission deems appropriate
2183 consistent with due process requirements under the United States
2184 Constitution as now or hereafter interpreted by the United States
2185 Supreme Court. All rules and amendments shall become binding as
2186 of the date specified, as published with the final version of the
2187 rule as approved by the Commission.

2188 (3) When promulgating a rule, the Interstate Commission
2189 shall, at a minimum:

2190 (a) Publish the proposed rule's entire text stating the
2191 reason(s) for that proposed rule;

2192 (b) Allow and invite any and all persons to submit
2193 written data, facts, opinions, and arguments, which information
2194 shall be added to the record, and be made publicly available;

2195 (c) Provide an opportunity for an informal hearing if
2196 petitioned by ten (10) or more persons; and

2197 (d) Promulgate a final rule and its effective date, if
2198 appropriate, based on input from state or local officials, or
2199 interested parties.

2200 (4) Allow not later than sixty (60) days after a rule is
2201 promulgated, any interested person to file a petition in the
2202 United States District Court for the District of Columbia or in
2203 the Federal District Court where the Interstate Commission's
2204 principal office is located for judicial review of the rule. If
2205 the court finds that the Interstate Commission's action is not
2206 supported by substantial evidence in the rule-making record, the
2207 court shall hold the rule unlawful and set it aside. For purposes
2208 of this subsection, evidence is substantial if it would be
2209 considered substantial evidence under the Model State
2210 Administrative Procedures Act.

2211 (5) If a majority of the legislatures of the compacting
2212 states rejects a rule, those states may, by enactment of a statute
2213 or resolution in the same manner used to adopt the compact, cause

2214 that the rule shall have no further force and effect in any
2215 compacting state.

2216 (6) The existing rules governing the operation of the
2217 Interstate Compact on Juveniles superceded by this act shall be
2218 null and void twelve (12) months after the first meeting of the
2219 Interstate Commission created under this compact.

2220 (7) Upon determination by the Interstate Commission that a
2221 state of emergency exists, it may promulgate an emergency rule
2222 that shall become effective immediately upon adoption, provided
2223 that the usual rule-making procedures provided under this article
2224 retroactively applied to the rule as soon as reasonable possible,
2225 but no later than ninety (90) days after the effective date of the
2226 emergency rule.

2227 **ARTICLE VII**

2228 **OVERSIGHT, ENFORCEMENT AND DISPUTES RESOLUTION BY THE INTERSTATE**
2229 **COMMISSION**

2230 (1) **Oversight.** (a) The Interstate Commission shall oversee
2231 the administration and operations of the interstate movement of
2232 juveniles subject to this compact in the compacting states and
2233 shall monitor those activities being administered in noncompacting
2234 states that may significantly affect compacting states.

2235 (b) The courts and executive agencies in each
2236 compacting state shall enforce this compact and shall take all
2237 actions necessary and appropriate to effectuate the compact's
2238 purposes and intent. The provisions of this compact and the rules
2239 promulgated under this compact shall be received by all the
2240 judges, public officers, commissions and departments of the state
2241 government as evidence of the authorized statute and
2242 administrative rules. All courts shall take judicial notice of
2243 the compact and the rules. In any judicial or administrative
2244 proceeding in a compacting state pertaining to the subject matter
2245 of this compact that may affect the powers, responsibilities or
2246 actions of the Interstate Commission, it shall be entitled to

2247 receive all service of process in any such proceeding, and shall
2248 have standing to intervene in the proceeding for all purposes.

2249 (2) **Dispute Resolution.** (a) The compacting states shall
2250 report to the Interstate Commission on all issues and activities
2251 necessary for the administration of the compact, as well as issues
2252 and activities pertaining to compliance with the provisions of the
2253 compact and its bylaws and rules.

2254 (b) Then Interstate Commission shall attempt, upon the
2255 request of a compacting state, to resolve any disputes or other
2256 issues that are subject to the compact and that may arise among
2257 compacting states and between compacting and noncompacting states.
2258 The commission shall promulgate a rule providing for both
2259 mediation and binding dispute resolution for disputes among the
2260 compacting states.

2261 (c) The Interstate Commission, in the reasonable
2262 exercise of its discretion, shall enforce the provisions and rules
2263 of this compact using any or all means set forth in Article XI of
2264 this compact.

2265 **ARTICLE VIII**

2266 **FINANCE**

2267 (1) The Interstate Commission shall pay or provide for the
2268 payment of the reasonable expenses of its establishment,
2269 organization and ongoing activities.

2270 (2) The Interstate Commission shall levy on and collect an
2271 annual assessment from each compacting state to cover the cost of
2272 the internal operations and activities of the Interstate
2273 Commission and its staff, which must be in a total amount
2274 sufficient to cover the Interstate Commission's annual budget as
2275 approved each year. The aggregate annual assessment amount shall
2276 be allocated based upon a formula to be determined by the
2277 Interstate Commission, taking into consideration the population of
2278 each compacting state and the volume of interstate movement of

2279 juveniles in each compacting state, and shall promulgate a rule
2280 binding upon all compacting states which governs the assessment.

2281 (3) The Interstate Commission shall not incur any
2282 obligations of any kind before securing the funds adequate to meet
2283 the same; nor shall the Interstate Commission pledge the credit of
2284 any of the compacting states, except by and with the authority of
2285 the compacting state.

2286 (4) The Interstate Commission shall keep accurate accounts
2287 of all receipts and disbursements. The receipts and disbursements
2288 of the Interstate Commission shall be subject to the audit and
2289 accounting procedures established under its bylaws. However, all
2290 receipts and disbursements of funds handled by the Interstate
2291 Commission shall be audited yearly by a certified or licensed
2292 public accountant and the report of the audit shall be included in
2293 and become part of the annual report of the Interstate Commission.

2294 **ARTICLE IX**

2295 **THE STATE COUNCIL**

2296 Each member state shall create a State Council for Interstate
2297 Juvenile Supervision. While each state may determine the
2298 membership of its own state council, its membership must include
2299 at least one (1) representative from the legislative, judicial,
2300 and executive branches of government, victims groups, and the
2301 compact administrator or designee. Each compacting state retains
2302 the right to determine the qualifications of the compact
2303 administrator or deputy compact administrator. Each state council
2304 will advise and may exercise oversight and advocacy concerning the
2305 state's participation in Interstate Commission activities and
2306 other duties as may be determined by that state, including, but
2307 not limited to, development of policy concerning operations and
2308 procedures of the compact within that state.

2309 **ARTICLE X**

2310 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

2311 (1) Any state, the District of Columbia (or its designee),
2312 the Commonwealth of Puerto Rico, the United States Virgin Islands,
2313 Guam, American Samoa and the Northern Marianas Islands as defined
2314 in Article II of this compact is eligible to become a compacting
2315 state.

2316 (2) The compact shall become effective and binding upon
2317 legislative enactment of the compact into law by no less than
2318 thirty-five (35) of the states. The initial effective date shall
2319 be the later of July 1, 2005 or upon enactment into law by the
2320 thirty-fifth jurisdiction. Thereafter, it shall become effective
2321 and binding as to any other compacting state upon enactment of the
2322 compact into law by that state. The governors of nonmember states
2323 or their designees shall be invited to participate in the
2324 activities of the Interstate Commission on a nonvoting basis
2325 before adoption of the compact by all states and territories of
2326 the United States.

2327 (3) The Interstate Commission may propose amendments to the
2328 compact for enactment by the compacting states. No amendment
2329 shall become effective and binding upon the Interstate Commission
2330 and the compacting states unless and until it is enacted into law
2331 by unanimous consent of the compacting states.

2332 **ARTICLE XI**

2333 **WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT**

2334 (1) **Withdrawal.** (a) Once effective, the compact shall
2335 continue in force and remain binding upon each and every
2336 compacting state; however, a compacting state may withdraw from
2337 the compact by specifically repealing the statute that enacted the
2338 compact into law.

2339 (b) The effective date of withdrawal is the effective
2340 date of the repeal.

2341 (c) The withdrawing state shall immediately notify the
2342 chairperson of the Interstate Commission in writing upon the
2343 introduction of legislation repealing this compact in the

2344 withdrawing state. The Interstate Commission shall notify the
2345 other compacting states of the withdrawing state's intent to
2346 withdraw within sixty (60) days of its receipt thereof.

2347 (d) The withdrawing state is responsible for all
2348 assessments, obligations and liabilities incurred through the
2349 effective date of withdrawal, including any obligations, the
2350 performance of which extend beyond the effective date of
2351 withdrawal.

2352 (e) Reinstatement following withdrawal of any
2353 compacting state shall occur upon the withdrawing state reenacting
2354 the compact or upon such later date as determined by the
2355 Interstate Commission.

2356 (2) **Technical Assistance, Fines, Suspension, Termination and**
2357 **Default.** (a) If the Interstate Commission determines that any
2358 compacting state has at any time defaulted in the performance of
2359 any of its obligations or responsibilities under this compact, or
2360 the bylaws or duly promulgated rules, the Interstate Commission
2361 may impose any or all the following penalties.

2362 (i) Remedial training and technical assistance as
2363 directed by the Interstate Commission;

2364 (ii) Alternative Dispute Resolution;

2365 (iii) Fines, fees and costs in such amounts as are
2366 deemed to be reasonable as fixed by the Interstate Commission; and

2367 (iv) Suspension or termination of membership in
2368 the compact, which shall be imposed only after all other
2369 reasonable means of securing compliance under the bylaws and rules
2370 have been exhausted and the Interstate Commission has therefore
2371 determined that the offending state is in default. Immediate
2372 notice of suspension shall be given by the Interstate Commission
2373 to the governor, the chief justice or the chief judicial officer
2374 of the state, the majority and minority leaders of the defaulting
2375 state's legislature and the state council. The grounds for
2376 default include, but are not limited to, failure of a compacting

2377 state to perform the obligation or responsibilities imposed upon
2378 it by this compact, the bylaws or duly promulgated rules and any
2379 other grounds designated in commission bylaws and rules. The
2380 Interstate Commission shall immediately notify the defaulting
2381 state in writing of the penalty imposed by the Interstate
2382 Commission and of the default pending a cure of the default. The
2383 commission shall stipulate the conditions and the time period
2384 within which the defaulting state must cure its default. If the
2385 defaulting state fails to cure the default within the time period
2386 specified by the commission, the defaulting state shall be
2387 terminated from the compact upon an affirmative vote of a majority
2388 of the compacting states and all rights, privileges and benefits
2389 conferred by this compact shall be terminated from the effective
2390 date of termination.

2391 (b) Within sixty (60) days of the effective date of
2392 termination of a defaulting state, the Commission shall notify the
2393 governor, the chief justice or chief judicial officer, the
2394 majority and minority leaders of the defaulting state's
2395 legislature, and the state council of that termination.

2396 (c) The defaulting state is responsible for all
2397 assessments, obligations and liabilities incurred through the
2398 effective date of termination including any obligations, the
2399 performance of which extends beyond the effective date of
2400 termination.

2401 (d) The Interstate Commission shall not bear any costs
2402 relating to the defaulting state unless otherwise mutually agreed
2403 upon in writing between the Interstate Commission and the
2404 defaulting state.

2405 (e) Reinstatement following termination of any
2406 compacting state requires both a reenactment of the compact by the
2407 defaulting state and the approval of the Interstate Commission
2408 pursuant to the rules.

2441 (b) All compacting states' laws other than state
2442 constitutions and other interstate compacts conflicting with this
2443 compact are superseded to the extent of the conflict.

2444 (2) **Binding Effect of the Compact.** (a) All lawful actions
2445 of the Interstate Commission, including all rules and bylaws
2446 promulgated by the Interstate Commission, are binding upon the
2447 compacting states.

2448 (b) All agreements between the Interstate Commission
2449 and the compacting states are binding in accordance with their
2450 terms.

2451 (c) Upon the request of a party to a conflict over
2452 meaning or interpretation of Interstate Commission actions, and
2453 upon a majority vote of the compacting states, the Interstate
2454 Commission may issue advisory opinions regarding that meaning or
2455 interpretation.

2456 (d) If any provision of this compact exceeds the
2457 constitutional limits imposed on the legislature of any compacting
2458 state, the obligations, duties, powers or jurisdiction sought to
2459 be conferred by that provision upon the Interstate Commission
2460 shall be ineffective and those obligation, duties, powers or
2461 jurisdiction shall remain in the compacting state and shall be
2462 exercised by the agency thereof to which those obligations,
2463 duties, powers or jurisdiction are delegated by law in effect at
2464 the time this compact becomes effective.

2465 **SECTION 27.** Section 37-7-301, Mississippi Code of 1972, is
2466 brought forward as follows:

2467 37-7-301. The school boards of all school districts shall
2468 have the following powers, authority and duties in addition to all
2469 others imposed or granted by law, to wit:

2470 (a) To organize and operate the schools of the district
2471 and to make such division between the high school grades and
2472 elementary grades as, in their judgment, will serve the best
2473 interests of the school;

2474 (b) To introduce public school music, art, manual
2475 training and other special subjects into either the elementary or
2476 high school grades, as the board shall deem proper;

2477 (c) To be the custodians of real and personal school
2478 property and to manage, control and care for same, both during the
2479 school term and during vacation;

2480 (d) To have responsibility for the erection, repairing
2481 and equipping of school facilities and the making of necessary
2482 school improvements;

2483 (e) To suspend or to expel a pupil or to change the
2484 placement of a pupil to the school district's alternative school
2485 or home-bound program for misconduct in the school or on school
2486 property, as defined in Section 37-11-29, on the road to and from
2487 school, or at any school-related activity or event, or for conduct
2488 occurring on property other than school property or other than at
2489 a school-related activity or event when such conduct by a pupil,
2490 in the determination of the school superintendent or principal,
2491 renders that pupil's presence in the classroom a disruption to the
2492 educational environment of the school or a detriment to the best
2493 interest and welfare of the pupils and teacher of such class as a
2494 whole, and to delegate such authority to the appropriate officials
2495 of the school district;

2496 (f) To visit schools in the district, in their
2497 discretion, in a body for the purpose of determining what can be
2498 done for the improvement of the school in a general way;

2499 (g) To support, within reasonable limits, the
2500 superintendent, principal and teachers where necessary for the
2501 proper discipline of the school;

2502 (h) To exclude from the schools students with what
2503 appears to be infectious or contagious diseases; provided,
2504 however, such student may be allowed to return to school upon
2505 presenting a certificate from a public health officer, duly

2506 licensed physician or nurse practitioner that the student is free
2507 from such disease;

2508 (i) To require those vaccinations specified by the
2509 State Health Officer as provided in Section 41-23-37, Mississippi
2510 Code of 1972;

2511 (j) To see that all necessary utilities and services
2512 are provided in the schools at all times when same are needed;

2513 (k) To authorize the use of the school buildings and
2514 grounds for the holding of public meetings and gatherings of the
2515 people under such regulations as may be prescribed by said board;

2516 (l) To prescribe and enforce rules and regulations not
2517 inconsistent with law or with the regulations of the State Board
2518 of Education for their own government and for the government of
2519 the schools, and to transact their business at regular and special
2520 meetings called and held in the manner provided by law;

2521 (m) To maintain and operate all of the schools under
2522 their control for such length of time during the year as may be
2523 required;

2524 (n) To enforce in the schools the courses of study and
2525 the use of the textbooks prescribed by the proper authorities;

2526 (o) To make orders directed to the superintendent of
2527 schools for the issuance of pay certificates for lawful purposes
2528 on any available funds of the district and to have full control of
2529 the receipt, distribution, allotment and disbursement of all funds
2530 provided for the support and operation of the schools of such
2531 school district whether such funds be derived from state
2532 appropriations, local ad valorem tax collections, or otherwise;

2533 (p) To select all school district personnel in the
2534 manner provided by law, and to provide for such employee fringe
2535 benefit programs, including accident reimbursement plans, as may
2536 be deemed necessary and appropriate by the board;

2537 (q) To provide athletic programs and other school
2538 activities and to regulate the establishment and operation of such
2539 programs and activities;

2540 (r) To join, in their discretion, any association of
2541 school boards and other public school-related organizations, and
2542 to pay from local funds other than minimum foundation funds, any
2543 membership dues;

2544 (s) To expend local school activity funds, or other
2545 available school district funds, other than minimum education
2546 program funds, for the purposes prescribed under this paragraph.
2547 "Activity funds" shall mean all funds received by school officials
2548 in all school districts paid or collected to participate in any
2549 school activity, such activity being part of the school program
2550 and partially financed with public funds or supplemented by public
2551 funds. The term "activity funds" shall not include any funds
2552 raised and/or expended by any organization unless commingled in a
2553 bank account with existing activity funds, regardless of whether
2554 the funds were raised by school employees or received by school
2555 employees during school hours or using school facilities, and
2556 regardless of whether a school employee exercises influence over
2557 the expenditure or disposition of such funds. Organizations shall
2558 not be required to make any payment to any school for the use of
2559 any school facility if, in the discretion of the local school
2560 governing board, the organization's function shall be deemed to be
2561 beneficial to the official or extracurricular programs of the
2562 school. For the purposes of this provision, the term
2563 "organization" shall not include any organization subject to the
2564 control of the local school governing board. Activity funds may
2565 only be expended for any necessary expenses or travel costs,
2566 including advances, incurred by students and their chaperons in
2567 attending any in-state or out-of-state school-related programs,
2568 conventions or seminars and/or any commodities, equipment, travel
2569 expenses, purchased services or school supplies which the local

2570 school governing board, in its discretion, shall deem beneficial
2571 to the official or extracurricular programs of the district,
2572 including items which may subsequently become the personal
2573 property of individuals, including yearbooks, athletic apparel,
2574 book covers and trophies. Activity funds may be used to pay
2575 travel expenses of school district personnel. The local school
2576 governing board shall be authorized and empowered to promulgate
2577 rules and regulations specifically designating for what purposes
2578 school activity funds may be expended. The local school governing
2579 board shall provide (i) that such school activity funds shall be
2580 maintained and expended by the principal of the school generating
2581 the funds in individual bank accounts, or (ii) that such school
2582 activity funds shall be maintained and expended by the
2583 superintendent of schools in a central depository approved by the
2584 board. The local school governing board shall provide that such
2585 school activity funds be audited as part of the annual audit
2586 required in Section 37-9-18. The State Auditor shall prescribe a
2587 uniform system of accounting and financial reporting for all
2588 school activity fund transactions;

2589 (t) To contract, on a shared savings, lease or
2590 lease-purchase basis, for energy efficiency services and/or
2591 equipment as provided for in Section 31-7-14, not to exceed ten
2592 (10) years;

2593 (u) To maintain accounts and issue pay certificates on
2594 school food service bank accounts;

2595 (v) (i) To lease a school building from an individual,
2596 partnership, nonprofit corporation or a private for-profit
2597 corporation for the use of such school district, and to expend
2598 funds therefor as may be available from any nonminimum program
2599 sources. The school board of the school district desiring to
2600 lease a school building shall declare by resolution that a need
2601 exists for a school building and that the school district cannot
2602 provide the necessary funds to pay the cost or its proportionate

2603 share of the cost of a school building required to meet the
2604 present needs. The resolution so adopted by the school board
2605 shall be published once each week for three (3) consecutive weeks
2606 in a newspaper having a general circulation in the school district
2607 involved, with the first publication thereof to be made not less
2608 than thirty (30) days prior to the date upon which the school
2609 board is to act on the question of leasing a school building. If
2610 no petition requesting an election is filed prior to such meeting
2611 as hereinafter provided, then the school board may, by resolution
2612 spread upon its minutes, proceed to lease a school building. If
2613 at any time prior to said meeting a petition signed by not less
2614 than twenty percent (20%) or fifteen hundred (1500), whichever is
2615 less, of the qualified electors of the school district involved
2616 shall be filed with the school board requesting that an election
2617 be called on the question, then the school board shall, not later
2618 than the next regular meeting, adopt a resolution calling an
2619 election to be held within such school district upon the question
2620 of authorizing the school board to lease a school building. Such
2621 election shall be called and held, and notice thereof shall be
2622 given, in the same manner for elections upon the questions of the
2623 issuance of the bonds of school districts, and the results thereof
2624 shall be certified to the school board. If at least three-fifths
2625 (3/5) of the qualified electors of the school district who voted
2626 in such election shall vote in favor of the leasing of a school
2627 building, then the school board shall proceed to lease a school
2628 building. The term of the lease contract shall not exceed twenty
2629 (20) years, and the total cost of such lease shall be either the
2630 amount of the lowest and best bid accepted by the school board
2631 after advertisement for bids or an amount not to exceed the
2632 current fair market value of the lease as determined by the
2633 averaging of at least two (2) appraisals by certified general
2634 appraisers licensed by the State of Mississippi. The term "school
2635 building" as used in this item (v) shall be construed to mean any

2636 building or buildings used for classroom purposes in connection
2637 with the operation of schools and shall include the site therefor,
2638 necessary support facilities, and the equipment thereof and
2639 appurtenances thereto such as heating facilities, water supply,
2640 sewage disposal, landscaping, walks, drives and playgrounds. The
2641 term "lease" as used in this item (v)(i) may include a
2642 lease/purchase contract;

2643 (ii) If two (2) or more school districts propose
2644 to enter into a lease contract jointly, then joint meetings of the
2645 school boards having control may be held but no action taken shall
2646 be binding on any such school district unless the question of
2647 leasing a school building is approved in each participating school
2648 district under the procedure hereinabove set forth in item (v)(i).
2649 All of the provisions of item (v)(i) regarding the term and amount
2650 of the lease contract shall apply to the school boards of school
2651 districts acting jointly. Any lease contract executed by two (2)
2652 or more school districts as joint lessees shall set out the amount
2653 of the aggregate lease rental to be paid by each, which may be
2654 agreed upon, but there shall be no right of occupancy by any
2655 lessee unless the aggregate rental is paid as stipulated in the
2656 lease contract. All rights of joint lessees under the lease
2657 contract shall be in proportion to the amount of lease rental paid
2658 by each;

2659 (w) To employ all noninstructional and noncertificated
2660 employees and fix the duties and compensation of such personnel
2661 deemed necessary pursuant to the recommendation of the
2662 superintendent of schools;

2663 (x) To employ and fix the duties and compensation of
2664 such legal counsel as deemed necessary;

2665 (y) Subject to rules and regulations of the State Board
2666 of Education, to purchase, own and operate trucks, vans and other
2667 motor vehicles, which shall bear the proper identification
2668 required by law;

2669 (z) To expend funds for the payment of substitute
2670 teachers and to adopt reasonable regulations for the employment
2671 and compensation of such substitute teachers;

2672 (aa) To acquire in its own name by purchase all real
2673 property which shall be necessary and desirable in connection with
2674 the construction, renovation or improvement of any public school
2675 building or structure. Whenever the purchase price for such real
2676 property is greater than Fifty Thousand Dollars (\$50,000.00), the
2677 school board shall not purchase the property for an amount
2678 exceeding the fair market value of such property as determined by
2679 the average of at least two (2) independent appraisals by
2680 certified general appraisers licensed by the State of Mississippi.
2681 If the board shall be unable to agree with the owner of any such
2682 real property in connection with any such project, the board shall
2683 have the power and authority to acquire any such real property by
2684 condemnation proceedings pursuant to Section 11-27-1 et seq.,
2685 Mississippi Code of 1972, and for such purpose, the right of
2686 eminent domain is hereby conferred upon and vested in said board.
2687 Provided further, that the local school board is authorized to
2688 grant an easement for ingress and egress over sixteenth section
2689 land or lieu land in exchange for a similar easement upon
2690 adjoining land where the exchange of easements affords substantial
2691 benefit to the sixteenth section land; provided, however, the
2692 exchange must be based upon values as determined by a competent
2693 appraiser, with any differential in value to be adjusted by cash
2694 payment. Any easement rights granted over sixteenth section land
2695 under such authority shall terminate when the easement ceases to
2696 be used for its stated purpose. No sixteenth section or lieu land
2697 which is subject to an existing lease shall be burdened by any
2698 such easement except by consent of the lessee or unless the school
2699 district shall acquire the unexpired leasehold interest affected
2700 by the easement;

2701 (bb) To charge reasonable fees related to the
2702 educational programs of the district, in the manner prescribed in
2703 Section 37-7-335;

2704 (cc) Subject to rules and regulations of the State
2705 Board of Education, to purchase relocatable classrooms for the use
2706 of such school district, in the manner prescribed in Section
2707 37-1-13;

2708 (dd) Enter into contracts or agreements with other
2709 school districts, political subdivisions or governmental entities
2710 to carry out one or more of the powers or duties of the school
2711 board, or to allow more efficient utilization of limited resources
2712 for providing services to the public;

2713 (ee) To provide for in-service training for employees
2714 of the district. Until June 30, 1994, the school boards may
2715 designate two (2) days of the minimum school term, as defined in
2716 Section 37-19-1, for employee in-service training for
2717 implementation of the new statewide testing system as developed by
2718 the State Board of Education. Such designation shall be subject
2719 to approval by the State Board of Education pursuant to uniform
2720 rules and regulations;

2721 (ff) As part of their duties to prescribe the use of
2722 textbooks, to provide that parents and legal guardians shall be
2723 responsible for the textbooks and for the compensation to the
2724 school district for any books which are not returned to the proper
2725 schools upon the withdrawal of their dependent child. If a
2726 textbook is lost or not returned by any student who drops out of
2727 the public school district, the parent or legal guardian shall
2728 also compensate the school district for the fair market value of
2729 the textbooks;

2730 (gg) To conduct fund-raising activities on behalf of
2731 the school district that the local school board, in its
2732 discretion, deems appropriate or beneficial to the official or
2733 extracurricular programs of the district; provided that:

2734 (i) Any proceeds of the fund-raising activities
2735 shall be treated as "activity funds" and shall be accounted for as
2736 are other activity funds under this section; and

2737 (ii) Fund-raising activities conducted or
2738 authorized by the board for the sale of school pictures, the
2739 rental of caps and gowns or the sale of graduation invitations for
2740 which the school board receives a commission, rebate or fee shall
2741 contain a disclosure statement advising that a portion of the
2742 proceeds of the sales or rentals shall be contributed to the
2743 student activity fund;

2744 (hh) To allow individual lessons for music, art and
2745 other curriculum-related activities for academic credit or
2746 nonacademic credit during school hours and using school equipment
2747 and facilities, subject to uniform rules and regulations adopted
2748 by the school board;

2749 (ii) To charge reasonable fees for participating in an
2750 extracurricular activity for academic or nonacademic credit for
2751 necessary and required equipment such as safety equipment, band
2752 instruments and uniforms;

2753 (jj) To conduct or participate in any fund-raising
2754 activities on behalf of or in connection with a tax-exempt
2755 charitable organization;

2756 (kk) To exercise such powers as may be reasonably
2757 necessary to carry out the provisions of this section;

2758 (ll) To expend funds for the services of nonprofit arts
2759 organizations or other such nonprofit organizations who provide
2760 performances or other services for the students of the school
2761 district;

2762 (mm) To expend federal No Child Left Behind Act funds,
2763 or any other available funds that are expressly designated and
2764 authorized for that use, to pay training, educational expenses,
2765 salary incentives and salary supplements to employees of local
2766 school districts; except that incentives shall not be considered

2767 part of the local supplement as defined in Section 37-151-5(o),
2768 nor shall incentives be considered part of the local supplement
2769 paid to an individual teacher for the purposes of Section
2770 37-19-7(1). Mississippi Adequate Education Program funds or any
2771 other state funds may not be used for salary incentives or salary
2772 supplements as provided in this paragraph (mm);

2773 (nn) To use any available funds, not appropriated or
2774 designated for any other purpose, for reimbursement to the
2775 state-licensed employees from both in-state and out-of-state, who
2776 enter into a contract for employment in a school district, for the
2777 expense of moving when the employment necessitates the relocation
2778 of the licensed employee to a different geographical area than
2779 that in which the licensed employee resides before entering into
2780 the contract. The reimbursement shall not exceed One Thousand
2781 Dollars (\$1,000.00) for the documented actual expenses incurred in
2782 the course of relocating, including the expense of any
2783 professional moving company or persons employed to assist with the
2784 move, rented moving vehicles or equipment, mileage in the amount
2785 authorized for county and municipal employees under Section
2786 25-3-41 if the licensed employee used his personal vehicle or
2787 vehicles for the move, meals and such other expenses associated
2788 with the relocation. No licensed employee may be reimbursed for
2789 moving expenses under this section on more than one (1) occasion
2790 by the same school district. Nothing in this section shall be
2791 construed to require the actual residence to which the licensed
2792 employee relocates to be within the boundaries of the school
2793 district that has executed a contract for employment in order for
2794 the licensed employee to be eligible for reimbursement for the
2795 moving expenses. However, the licensed employee must relocate
2796 within the boundaries of the State of Mississippi. Any individual
2797 receiving relocation assistance through the Critical Teacher
2798 Shortage Act as provided in Section 37-159-5 shall not be eligible

2799 to receive additional relocation funds as authorized in this
2800 paragraph;

2801 (oo) To use any available funds, not appropriated or
2802 designated for any other purpose, to reimburse persons who
2803 interview for employment as a licensed employee with the district
2804 for the mileage and other actual expenses incurred in the course
2805 of travel to and from the interview at the rate authorized for
2806 county and municipal employees under Section 25-3-41;

2807 (pp) Consistent with the report of the Task Force to
2808 Conduct a Best Financial Management Practices Review, to improve
2809 school district management and use of resources and identify cost
2810 savings as established in Section 8 of Chapter 610, Laws of 2002,
2811 local school boards are encouraged to conduct independent reviews
2812 of the management and efficiency of schools and school districts.
2813 Such management and efficiency reviews shall provide state and
2814 local officials and the public with the following:

2815 (i) An assessment of a school district's
2816 governance and organizational structure;

2817 (ii) An assessment of the school district's
2818 financial and personnel management;

2819 (iii) An assessment of revenue levels and sources;

2820 (iv) An assessment of facilities utilization,
2821 planning and maintenance;

2822 (v) An assessment of food services, transportation
2823 and safety/security systems;

2824 (vi) An assessment of instructional and
2825 administrative technology;

2826 (vii) A review of the instructional management and
2827 the efficiency and effectiveness of existing instructional
2828 programs; and

2829 (viii) Recommended methods for increasing
2830 efficiency and effectiveness in providing educational services to
2831 the public;

2832 (qq) To enter into agreements with other local school
2833 boards for the establishment of an educational service agency
2834 (ESA) to provide for the cooperative needs of the region in which
2835 the school district is located, as provided in Section 37-7-345.
2836 This paragraph shall repeal on July 1, 2007;

2837 (rr) To implement a financial literacy program for
2838 students in Grades 10 and 11. The board may review the national
2839 programs and obtain free literature from various nationally
2840 recognized programs. After review of the different programs, the
2841 board may certify a program that is most appropriate for the
2842 school districts' needs. If a district implements a financial
2843 literacy program, then any student in Grade 10 or 11 may
2844 participate in the program. The financial literacy program shall
2845 include, but is not limited to, instruction in the same areas of
2846 personal business and finance as required under Section
2847 37-1-3(2)(b). The school board may coordinate with volunteer
2848 teachers from local community organizations, including, but not
2849 limited to, the following: United States Department of
2850 Agriculture Rural Development, United States Department of Housing
2851 and Urban Development, Junior Achievement, bankers and other
2852 nonprofit organizations. Nothing in this paragraph shall be
2853 construed as to require school boards to implement a financial
2854 literacy program;

2855 (ss) To collaborate with the State Board of Education,
2856 Community Action Agencies or the Department of Human Services to
2857 develop and implement a voluntary program to provide services for
2858 a full day prekindergarten program that addresses the cognitive,
2859 social, and emotional needs of four-year-old and three-year-old
2860 children. The school board may utilize nonstate source special
2861 funds, grants, donations or gifts to fund the voluntary program.

2862 **SECTION 28.** Section 37-13-91, Mississippi Code of 1972, is
2863 brought forward as follows:

2864 37-13-91. (1) This section shall be referred to as the
2865 "Mississippi Compulsory School Attendance Law."

2866 (2) The following terms as used in this section are defined
2867 as follows:

2868 (a) "Parent" means the father or mother to whom a child
2869 has been born, or the father or mother by whom a child has been
2870 legally adopted.

2871 (b) "Guardian" means a guardian of the person of a
2872 child, other than a parent, who is legally appointed by a court of
2873 competent jurisdiction.

2874 (c) "Custodian" means any person having the present
2875 care or custody of a child, other than a parent or guardian of the
2876 child.

2877 (d) "School day" means not less than five (5) and not
2878 more than eight (8) hours of actual teaching in which both
2879 teachers and pupils are in regular attendance for scheduled
2880 schoolwork.

2881 (e) "School" means any public school in this state or
2882 any nonpublic school in this state which is in session each school
2883 year for at least one hundred eighty (180) school days, except
2884 that the "nonpublic" school term shall be the number of days that
2885 each school shall require for promotion from grade to grade.

2886 (f) "Compulsory-school-age child" means a child who has
2887 attained or will attain the age of six (6) years on or before
2888 September 1 of the calendar year and who has not attained the age
2889 of seventeen (17) years on or before September 1 of the calendar
2890 year; and shall include any child who has attained or will attain
2891 the age of five (5) years on or before September 1 and has
2892 enrolled in a full-day public school kindergarten program.
2893 Provided, however, that the parent or guardian of any child
2894 enrolled in a full-day public school kindergarten program shall be
2895 allowed to disenroll the child from the program on a one-time

2896 basis, and such child shall not be deemed a compulsory-school-age
2897 child until the child attains the age of six (6) years.

2898 (g) "School attendance officer" means a person employed
2899 by the State Department of Education pursuant to Section 37-13-89.

2900 (h) "Appropriate school official" means the
2901 superintendent of the school district, or his designee, or, in the
2902 case of a nonpublic school, the principal or the headmaster.

2903 (i) "Nonpublic school" means an institution for the
2904 teaching of children, consisting of a physical plant, whether
2905 owned or leased, including a home, instructional staff members and
2906 students, and which is in session each school year. This
2907 definition shall include, but not be limited to, private, church,
2908 parochial and home instruction programs.

2909 (3) A parent, guardian or custodian of a
2910 compulsory-school-age child in this state shall cause the child to
2911 enroll in and attend a public school or legitimate nonpublic
2912 school for the period of time that the child is of compulsory
2913 school age, except under the following circumstances:

2914 (a) When a compulsory-school-age child is physically,
2915 mentally or emotionally incapable of attending school as
2916 determined by the appropriate school official based upon
2917 sufficient medical documentation.

2918 (b) When a compulsory-school-age child is enrolled in
2919 and pursuing a course of special education, remedial education or
2920 education for handicapped or physically or mentally disadvantaged
2921 children.

2922 (c) When a compulsory-school-age child is being
2923 educated in a legitimate home instruction program.

2924 The parent, guardian or custodian of a compulsory-school-age
2925 child described in this subsection, or the parent, guardian or
2926 custodian of a compulsory-school-age child attending any nonpublic
2927 school, or the appropriate school official for any or all children
2928 attending a nonpublic school shall complete a "certificate of

2929 enrollment" in order to facilitate the administration of this
2930 section.

2931 The form of the certificate of enrollment shall be prepared
2932 by the Office of Compulsory School Attendance Enforcement of the
2933 State Department of Education and shall be designed to obtain the
2934 following information only:

2935 (i) The name, address, telephone number and date
2936 of birth of the compulsory-school-age child;

2937 (ii) The name, address and telephone number of the
2938 parent, guardian or custodian of the compulsory-school-age child;

2939 (iii) A simple description of the type of
2940 education the compulsory-school-age child is receiving and, if the
2941 child is enrolled in a nonpublic school, the name and address of
2942 the school; and

2943 (iv) The signature of the parent, guardian or
2944 custodian of the compulsory-school-age child or, for any or all
2945 compulsory-school-age child or children attending a nonpublic
2946 school, the signature of the appropriate school official and the
2947 date signed.

2948 The certificate of enrollment shall be returned to the school
2949 attendance officer where the child resides on or before September
2950 15 of each year. Any parent, guardian or custodian found by the
2951 school attendance officer to be in noncompliance with this section
2952 shall comply, after written notice of the noncompliance by the
2953 school attendance officer, with this subsection within ten (10)
2954 days after the notice or be in violation of this section.

2955 However, in the event the child has been enrolled in a public
2956 school within fifteen (15) calendar days after the first day of
2957 the school year as required in subsection (6), the parent or
2958 custodian may, at a later date, enroll the child in a legitimate
2959 nonpublic school or legitimate home instruction program and send
2960 the certificate of enrollment to the school attendance officer and
2961 be in compliance with this subsection.

2962 For the purposes of this subsection, a legitimate nonpublic
2963 school or legitimate home instruction program shall be those not
2964 operated or instituted for the purpose of avoiding or
2965 circumventing the compulsory attendance law.

2966 (4) An "unlawful absence" is an absence during a school day
2967 by a compulsory-school-age child, which absence is not due to a
2968 valid excuse for temporary nonattendance. Days missed from school
2969 due to disciplinary suspension shall not be considered an
2970 "excused" absence under this section. This subsection shall not
2971 apply to children enrolled in a nonpublic school.

2972 Each of the following shall constitute a valid excuse for
2973 temporary nonattendance of a compulsory-school-age child enrolled
2974 in a public school, provided satisfactory evidence of the excuse
2975 is provided to the superintendent of the school district, or his
2976 designee:

2977 (a) An absence is excused when the absence results from
2978 the compulsory-school-age child's attendance at an authorized
2979 school activity with the prior approval of the superintendent of
2980 the school district, or his designee. These activities may
2981 include field trips, athletic contests, student conventions,
2982 musical festivals and any similar activity.

2983 (b) An absence is excused when the absence results from
2984 illness or injury which prevents the compulsory-school-age child
2985 from being physically able to attend school.

2986 (c) An absence is excused when isolation of a
2987 compulsory-school-age child is ordered by the county health
2988 officer, by the State Board of Health or appropriate school
2989 official.

2990 (d) An absence is excused when it results from the
2991 death or serious illness of a member of the immediate family of a
2992 compulsory-school-age child. The immediate family members of a
2993 compulsory-school-age child shall include children, spouse,

2994 grandparents, parents, brothers and sisters, including
2995 stepbrothers and stepsisters.

2996 (e) An absence is excused when it results from a
2997 medical or dental appointment of a compulsory-school-age child
2998 where an approval of the superintendent of the school district, or
2999 his designee, is gained before the absence, except in the case of
3000 emergency.

3001 (f) An absence is excused when it results from the
3002 attendance of a compulsory-school-age child at the proceedings of
3003 a court or an administrative tribunal if the child is a party to
3004 the action or under subpoena as a witness.

3005 (g) An absence may be excused if the religion to which
3006 the compulsory-school-age child or the child's parents adheres,
3007 requires or suggests the observance of a religious event. The
3008 approval of the absence is within the discretion of the
3009 superintendent of the school district, or his designee, but
3010 approval should be granted unless the religion's observance is of
3011 such duration as to interfere with the education of the child.

3012 (h) An absence may be excused when it is demonstrated
3013 to the satisfaction of the superintendent of the school district,
3014 or his designee, that the purpose of the absence is to take
3015 advantage of a valid educational opportunity such as travel,
3016 including vacations or other family travel. Approval of the
3017 absence must be gained from the superintendent of the school
3018 district, or his designee, before the absence, but the approval
3019 shall not be unreasonably withheld.

3020 (i) An absence may be excused when it is demonstrated
3021 to the satisfaction of the superintendent of the school district,
3022 or his designee, that conditions are sufficient to warrant the
3023 compulsory-school-age child's nonattendance. However, no absences
3024 shall be excused by the school district superintendent, or his
3025 designee, when any student suspensions or expulsions circumvent
3026 the intent and spirit of the compulsory attendance law.

3027 (5) Any parent, guardian or custodian of a
3028 compulsory-school-age child subject to this section who refuses or
3029 willfully fails to perform any of the duties imposed upon him or
3030 her under this section or who intentionally falsifies any
3031 information required to be contained in a certificate of
3032 enrollment, shall be guilty of contributing to the neglect of a
3033 child and, upon conviction, shall be punished in accordance with
3034 Section 97-5-39.

3035 Upon prosecution of a parent, guardian or custodian of a
3036 compulsory-school-age child for violation of this section, the
3037 presentation of evidence by the prosecutor that shows that the
3038 child has not been enrolled in school within eighteen (18)
3039 calendar days after the first day of the school year of the public
3040 school which the child is eligible to attend, or that the child
3041 has accumulated twelve (12) unlawful absences during the school
3042 year at the public school in which the child has been enrolled,
3043 shall establish a prima facie case that the child's parent,
3044 guardian or custodian is responsible for the absences and has
3045 refused or willfully failed to perform the duties imposed upon him
3046 or her under this section. However, no proceedings under this
3047 section shall be brought against a parent, guardian or custodian
3048 of a compulsory-school-age child unless the school attendance
3049 officer has contacted promptly the home of the child and has
3050 provided written notice to the parent, guardian or custodian of
3051 the requirement for the child's enrollment or attendance.

3052 (6) If a compulsory-school-age child has not been enrolled
3053 in a school within fifteen (15) calendar days after the first day
3054 of the school year of the school which the child is eligible to
3055 attend or the child has accumulated five (5) unlawful absences
3056 during the school year of the public school in which the child is
3057 enrolled, the school district superintendent shall report, within
3058 two (2) school days or within five (5) calendar days, whichever is
3059 less, the absences to the school attendance officer. The State

3060 Department of Education shall prescribe a uniform method for
3061 schools to utilize in reporting the unlawful absences to the
3062 school attendance officer. The superintendent, or his designee,
3063 also shall report any student suspensions or student expulsions to
3064 the school attendance officer when they occur.

3065 (7) When a school attendance officer has made all attempts
3066 to secure enrollment and/or attendance of a compulsory-school-age
3067 child and is unable to effect the enrollment and/or attendance,
3068 the attendance officer shall file a petition with the youth court
3069 under Section 43-21-451 or shall file a petition in a court of
3070 competent jurisdiction as it pertains to parent or child.
3071 Sheriffs, deputy sheriffs and municipal law enforcement officers
3072 shall be fully authorized to investigate all cases of
3073 nonattendance and unlawful absences by compulsory-school-age
3074 children, and shall be authorized to file a petition with the
3075 youth court under Section 43-21-451 or file a petition or
3076 information in the court of competent jurisdiction as it pertains
3077 to parent or child for violation of this section. The youth court
3078 shall expedite a hearing to make an appropriate adjudication and a
3079 disposition to ensure compliance with the Compulsory School
3080 Attendance Law, and may order the child to enroll or re-enroll in
3081 school. The superintendent of the school district to which the
3082 child is ordered may assign, in his discretion, the child to the
3083 alternative school program of the school established pursuant to
3084 Section 37-13-92.

3085 (8) The State Board of Education shall adopt rules and
3086 regulations for the purpose of reprimanding any school
3087 superintendents who fail to timely report unexcused absences under
3088 the provisions of this section.

3089 (9) Notwithstanding any provision or implication herein to
3090 the contrary, it is not the intention of this section to impair
3091 the primary right and the obligation of the parent or parents, or
3092 person or persons in loco parentis to a child, to choose the

3093 proper education and training for such child, and nothing in this
3094 section shall ever be construed to grant, by implication or
3095 otherwise, to the State of Mississippi, any of its officers,
3096 agencies or subdivisions any right or authority to control,
3097 manage, supervise or make any suggestion as to the control,
3098 management or supervision of any private or parochial school or
3099 institution for the education or training of children, of any kind
3100 whatsoever that is not a public school according to the laws of
3101 this state; and this section shall never be construed so as to
3102 grant, by implication or otherwise, any right or authority to any
3103 state agency or other entity to control, manage, supervise,
3104 provide for or affect the operation, management, program,
3105 curriculum, admissions policy or discipline of any such school or
3106 home instruction program.

3107 **SECTION 29.** Section 37-13-92, Mississippi Code of 1972, is
3108 brought forward as follows:

3109 37-13-92. (1) Beginning with the school year 2004-2005, the
3110 school boards of all school districts shall establish, maintain
3111 and operate, in connection with the regular programs of the school
3112 district, an alternative school program or behavior modification
3113 program as defined by the State Board of Education for, but not
3114 limited to, the following categories of compulsory-school-age
3115 students:

3116 (a) Any compulsory-school-age child who has been
3117 suspended for more than ten (10) days or expelled from school,
3118 except for any student expelled for possession of a weapon or
3119 other felonious conduct;

3120 (b) Any compulsory-school-age child referred to such
3121 alternative school based upon a documented need for placement in
3122 the alternative school program by the parent, legal guardian or
3123 custodian of such child due to disciplinary problems;

3124 (c) Any compulsory-school-age child referred to such
3125 alternative school program by the dispositive order of a

3126 chancellor or youth court judge, with the consent of the
3127 superintendent of the child's school district; and

3128 (d) Any compulsory-school-age child whose presence in
3129 the classroom, in the determination of the school superintendent
3130 or principal, is a disruption to the educational environment of
3131 the school or a detriment to the best interest and welfare of the
3132 students and teacher of such class as a whole.

3133 (2) The principal or program administrator of any such
3134 alternative school program shall require verification from the
3135 appropriate guidance counselor of any such child referred to the
3136 alternative school program regarding the suitability of such child
3137 for attendance at the alternative school program. Before a
3138 student may be removed to an alternative school education program,
3139 the superintendent of the student's school district must determine
3140 that the written and distributed disciplinary policy of the local
3141 district is being followed. The policy shall include standards
3142 for:

3143 (a) The removal of a student to an alternative
3144 education program that will include a process of educational
3145 review to develop the student's individual instruction plan and
3146 the evaluation at regular intervals of the student's educational
3147 progress; the process shall include classroom teachers and/or
3148 other appropriate professional personnel, as defined in the
3149 district policy, to ensure a continuing educational program for
3150 the removed student;

3151 (b) The duration of alternative placement; and

3152 (c) The notification of parents or guardians, and their
3153 appropriate inclusion in the removal and evaluation process, as
3154 defined in the district policy. Nothing in this paragraph should
3155 be defined in a manner to circumvent the principal's or the
3156 superintendent's authority to remove a student to alternative
3157 education.

3158 (3) The local school board or the superintendent shall
3159 provide for the continuing education of a student who has been
3160 removed to an alternative school program.

3161 (4) A school district, in its discretion, may provide a
3162 program of general educational development (GED) preparatory
3163 instruction in the alternative school program. However, any GED
3164 preparation program offered in an alternative school program must
3165 be administered in compliance with the rules and regulations
3166 established for such programs under Sections 37-35-1 through
3167 37-35-11 and by the State Board for Community and Junior Colleges.
3168 The school district may administer the General Educational
3169 Development (GED) Testing Program under the policies and
3170 guidelines of the GED Testing Service of the American Council on
3171 Education in the alternative school program or may authorize the
3172 test to be administered through the community/junior college
3173 district in which the alternative school is situated.

3174 (5) Any such alternative school program operated under the
3175 authority of this section shall meet all appropriate accreditation
3176 requirements of the State Department of Education.

3177 (6) The alternative school program may be held within such
3178 school district or may be operated by two (2) or more adjacent
3179 school districts, pursuant to a contract approved by the State
3180 Board of Education. When two (2) or more school districts
3181 contract to operate an alternative school program, the school
3182 board of a district designated to be the lead district shall serve
3183 as the governing board of the alternative school program.
3184 Transportation for students attending the alternative school
3185 program shall be the responsibility of the local school district.
3186 The expense of establishing, maintaining and operating such
3187 alternative school program may be paid from funds contributed or
3188 otherwise made available to the school district for such purpose
3189 or from local district maintenance funds.

3190 (7) The State Board of Education shall promulgate minimum
3191 guidelines for alternative school programs. The guidelines shall
3192 require, at a minimum, the formulation of an individual
3193 instruction plan for each student referred to the alternative
3194 school program and, upon a determination that it is in a student's
3195 best interest for that student to receive general educational
3196 development (GED) preparatory instruction, that the local school
3197 board assign the student to a GED preparatory program established
3198 under subsection (4) of this section. The minimum guidelines for
3199 alternative school programs shall also require the following
3200 components:

3201 (a) Clear guidelines and procedures for placement of
3202 students into alternative education programs which at a minimum
3203 shall prescribe due process procedures for disciplinary and
3204 general educational development (GED) placement;

3205 (b) Clear and consistent goals for students and
3206 parents;

3207 (c) Curricula addressing cultural and learning style
3208 differences;

3209 (d) Direct supervision of all activities on a closed
3210 campus;

3211 (e) Full-day attendance with a rigorous workload and
3212 minimal time off;

3213 (f) Selection of program from options provided by the
3214 local school district, Division of Youth Services or the youth
3215 court, including transfer to a community-based alternative school;

3216 (g) Continual monitoring and evaluation and formalized
3217 passage from one step or program to another;

3218 (h) A motivated and culturally diverse staff;

3219 (i) Counseling for parents and students;

3220 (j) Administrative and community support for the
3221 program; and

3222 (k) Clear procedures for annual alternative school
3223 program review and evaluation.

3224 (8) On request of a school district, the State Department of
3225 Education shall provide the district informational material on
3226 developing an alternative school program that takes into
3227 consideration size, wealth and existing facilities in determining
3228 a program best suited to a district.

3229 (9) Any compulsory-school-age child who becomes involved in
3230 any criminal or violent behavior shall be removed from such
3231 alternative school program and, if probable cause exists, a case
3232 shall be referred to the youth court.

3233 (10) The State Board of Education, in its discretion, may
3234 exempt not more than four (4) school district alternative school
3235 programs in the state from any compulsory standard of
3236 accreditation for a period of three (3) years. During this
3237 period, the State Department of Education shall conduct a study of
3238 all alternative school programs in the state, and on or before
3239 January 1, 2000, shall develop and promulgate accreditation
3240 standards for all alternative school programs, including any
3241 recommendations for necessary legislation relating to such
3242 alternative school programs.

3243 **SECTION 30.** Section 37-151-83, Mississippi Code of 1972, is
3244 brought forward as follows:

3245 37-151-83. (1) In addition to other funds allowed under the
3246 Adequate Education Program, each school district shall receive a
3247 grant for the support of alternative school programs established
3248 under Section 37-13-92, Mississippi Code of 1972, in accordance
3249 with the following: Three-fourths of one percent (.75%) of the
3250 school district's average daily attendance or twelve (12) pupils,
3251 whichever is greater, multiplied by the average expenditure of
3252 public monies per pupil in the State of Mississippi, as determined
3253 by the State Board of Education.

3254 (2) An alternative school advisory board may be created
3255 within each school district maintaining a freestanding alternative
3256 school or two (2) or more adjacent school districts operating a
3257 freestanding alternative school pursuant to a contract approved by
3258 the State Board of Education. The advisory board shall meet no
3259 less than two (2) times during each school year to study the
3260 alternative school program and to make recommendations for
3261 improvements to the superintendent of the local school board or
3262 boards, as the case may be, and the State Superintendent of
3263 Education. The alternative school advisory board shall consist of
3264 the following members: one (1) school administrator to be
3265 appointed by each local school board of the school district or
3266 districts operating the alternative school; one (1) school board
3267 member and one (1) parent to be appointed by each superintendent
3268 of the school district or districts operating the alternative
3269 school; one (1) classroom teacher to be appointed by the classroom
3270 teachers in each school district operating the alternative school;
3271 one (1) individual to be appointed by the local youth court judge,
3272 or if there is no such court the chancery court judge; and one (1)
3273 law enforcement officer to be appointed by the local sheriff. The
3274 initial members of the advisory board shall serve as follows:
3275 One-third (1/3) of the members shall serve two (2) years;
3276 one-third (1/3) of the members shall serve three (3) years; and
3277 one-third (1/3) of the members shall serve four (4) years, to be
3278 designated by the appointing authority at the time of appointment.
3279 Thereafter, the term of each member shall be for a period of four
3280 (4) years.

3281 An alternative school advisory board shall have no governing
3282 authority over the alternative school program, and not in any
3283 manner shall an advisory board's authority supersede the authority
3284 of the school district or lead district in those alternative
3285 school programs operated jointly by two (2) or more districts.

3286 **SECTION 31.** Section 43-21-621, Mississippi Code of 1972, is
3287 brought forward as follows:

3288 43-21-621. (1) The youth court may, in compliance with the
3289 laws governing education of children, order any state-supported
3290 public school in its jurisdiction after notice and hearing to
3291 enroll or reenroll any compulsory-school-age child in school, and
3292 further order appropriate educational services. Provided,
3293 however, that the youth court shall not order the enrollment or
3294 reenrollment of a student that has been suspended or expelled by a
3295 public school pursuant to Section 37-9-71 or 37-7-301 for
3296 possession of a weapon on school grounds, for an offense involving
3297 a threat to the safety of other persons or for the commission of a
3298 violent act. For the purpose of this section "violent act" means
3299 any action which results in death or physical harm to another or
3300 an attempt to cause death or physical harm to another. The
3301 superintendent of the school district to which such child is
3302 ordered may, in his discretion, assign such child to the
3303 alternative school program of such school established pursuant to
3304 Section 37-13-92, Mississippi Code of 1972. The court shall have
3305 jurisdiction to enforce school and education laws. Nothing in
3306 this section shall be construed to affect the attendance of a
3307 child in a legitimate home instruction program.

3308 (2) The youth court may specify the following conditions of
3309 probation related to any juvenile ordered to enroll or reenroll in
3310 school: That the juvenile maintain passing grades in up to four
3311 (4) courses during each grading period and meet with the court
3312 counselor and a representative of the school to make a plan for
3313 how to maintain those passing grades.

3314 (3) If the adjudication of delinquency was for an offense
3315 involving a threat to the safety of the juvenile or others and
3316 school attendance is a condition of probation, the youth court
3317 judge shall make a finding that the principal of the juvenile's
3318 school should be notified. If the judge orders that the principal

3319 be notified, the youth court counselor shall within five (5) days
3320 or before the juvenile begins to attend school, whichever occurs
3321 first, notify the principal of the juvenile's school in writing of
3322 the nature of the offense and the probation requirements related
3323 to school attendance. A principal notified by a juvenile court
3324 counselor shall handle the report according to the guidelines and
3325 rules adopted by the State Board of Education.

3326 (4) The Administrative Office of the Courts shall report to
3327 the Legislature on the number of juveniles reported to principals
3328 in accordance with this section no later than January 1, 1996.

3329 **SECTION 32.** Sections 43-25-1 through 43-25-17, Mississippi
3330 Code of 1972, which provide for the Interstate Compact on
3331 Juveniles, is repealed.

3332 **SECTION 33.** Sections 43-27-10, 43-27-11, 43-27-12, 43-27-22,
3333 43-27-23, 43-27-25, 43-27-27, 43-27-29 and 43-27-35, Mississippi
3334 Code of 1972, which provide that the Department of Human Services
3335 has jurisdiction over the juvenile correctional facilities, are
3336 repealed.

3337 **SECTION 34.** This act shall take effect and be in force from
3338 and after July 1, 2005, if it is effectuated on or before that
3339 date under Section 5 of the Voting Rights Act of 1965, as amended
3340 and extended. If it is effectuated under Section 5 of the Voting
3341 Rights Act of 1965, as amended and extended, after July 1, 2005,
3342 this act shall take effect and be in force from and after the date
3343 it is effectuated under Section 5 of the Voting Rights Act of
3344 1965, as amended and extended.