

By: Senator(s) Tollison, Albritton, Butler, Gollott, Gordon, Harden, Horhn, Jackson (11th), Jackson (32nd), Jordan, King, Morgan, Thomas

To: Judiciary, Division B; Appropriations

SENATE BILL NO. 2894
(As Passed the Senate)

1 AN ACT TO CREATE THE JUVENILE JUSTICE REFORM ACT OF 2005; TO
2 ESTABLISH THE JUVENILE DETENTION FACILITIES MONITORING UNIT; TO
3 AMEND SECTION 43-14-1, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT
4 EACH MAP TEAM SHALL HAVE AN "A" (ADOLESCENT) TEAM TO PROVIDE
5 SERVICES FOR CERTAIN YOUTH OFFENDERS; TO AMEND SECTION 43-14-5,
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION
7 43-21-105, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS UNDER
8 THE YOUTH COURT ACT; TO AMEND SECTION 43-21-321, MISSISSIPPI CODE
9 OF 1972, TO PROVIDE THAT IF A YOUTH IN A DETENTION CENTER HAS BEEN
10 SCREENED BY CERTAIN MENTAL SCREENING INSTRUMENTS AND IT IS
11 DETERMINED THAT THE YOUTH NEEDS PROFESSIONAL MENTAL HELP, THEN THE
12 CHILD MUST BE REFERRED TO SUCH HELP WITHIN 48 HOURS; TO AMEND
13 SECTION 43-21-605, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ONLY
14 CERTAIN DELINQUENT ACTS WILL ALLOW A YOUTH COURT JUDGE TO COMMIT A
15 CHILD TO A STATE-SUPPORTED TRAINING SCHOOL, AND TO PROVIDE THAT
16 YOUTHS COMMITTED TO A STATE-SUPPORTED TRAINING SCHOOL MUST STAY AN
17 ADEQUATE TIME; TO AMEND SECTION 43-27-201, MISSISSIPPI CODE OF
18 1972, TO REQUIRE THAT THE DIVISION OF YOUTH SERVICES SHALL
19 ESTABLISH ADOLESCENT OFFENDER PROGRAM AVAILABILITY FOR EACH COUNTY
20 BY A CERTAIN DATE; TO AMEND SECTION 43-27-401, MISSISSIPPI CODE OF
21 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO AMEND SECTION
22 47-5-138, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM THE 85% RULE
23 YOUTH WHO ARE UNDER THE AGE OF 21 WHO HAVE COMMITTED NONVIOLENT
24 OFFENSES AND ARE UNDER THE JURISDICTION OF THE DEPARTMENT OF
25 CORRECTIONS; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** (1) There is established the Juvenile Detention
28 Facilities Monitoring Unit within the Office of the Attorney
29 General to work in cooperation with the Juvenile Justice Advisory
30 Committee described in Section 45-1-33. The unit shall inspect
31 all juvenile detention facilities on a quarterly basis. The
32 inspections shall encompass the following:

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

36 (b) Providing technical assistance and advice to
37 juvenile detention facilities, which will assist the facilities in
38 complying with the minimum standards.

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

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

44 (b) To develop a strategic plan and a timeline for each
45 juvenile detention facility to come into compliance with the
46 minimum standards as described in this subsection.

47 **SECTION 2.** Section 43-14-1, Mississippi Code of 1972, is
48 amended as follows:

49 43-14-1. (1) The purpose of this chapter is to provide for
50 the development and implementation of a coordinated interagency
51 system of necessary services and care for children and youth up to
52 age twenty-one (21) with serious emotional/behavioral disorders
53 including, but not limited to, conduct disorders, or mental
54 illness who require services from a multiple services and multiple
55 programs system, and who can be successfully diverted from
56 inappropriate institutional placement. This program is to be done
57 in the most fiscally responsible (cost efficient) manner possible,
58 based on an individualized plan of care which takes into account
59 other available interagency programs, including, but not limited
60 to, Early Intervention Act of Infants and Toddlers, Section
61 41-87-1 et seq., Early Periodic Screening Diagnosis and Treatment,
62 Section 43-13-117(5), waived program for home- and
63 community-based services for developmentally disabled people,
64 Section 43-13-117(29), and waived program for targeted case
65 management services for children with special needs, Section
66 43-13-117(31), those children identified through the federal
67 Individuals with Disabilities Education Act of 1997 as having a
68 serious emotional disorder (EMD), the Mississippi Children's
69 Health Insurance Program Phase I and Phase II and waived
70 programs for children with serious emotional disturbances, Section
71 43-13-117(46), and is tied to clinically appropriate outcomes.

72 Some of the outcomes are to reduce the number of inappropriate
73 out-of-home placements inclusive of those out-of-state and to
74 reduce the number of inappropriate school suspensions and
75 expulsions for this population of children. From and after July
76 1, 2001, this coordinated interagency system of necessary services
77 and care shall be named the System of Care program. Children to
78 be served by this chapter who are eligible for Medicaid shall be
79 screened through the Medicaid Early Periodic Screening Diagnosis
80 and Treatment (EPSDT) and their needs for medically necessary
81 services shall be certified through the EPSDT process. For
82 purposes of this chapter, a "System of Care" is defined as a
83 coordinated network of agencies and providers working as a team to
84 make a full range of mental health and other necessary services
85 available as needed by children with mental health problems and
86 their families. The System of Care shall be:

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

88 (b) Community based;

89 (c) Culturally competent and responsive; and shall

90 provide for:

91 (i) Service coordination or case management;

92 (ii) Prevention and early identification and
93 intervention;

94 (iii) Smooth transitions among agencies,

95 providers, and to the adult service system;

96 (iv) Human rights protection and advocacy;

97 (v) Nondiscrimination in access to services;

98 (vi) A comprehensive array of services;

99 (vii) Individualized service planning;

100 (viii) Services in the least restrictive
101 environment;

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

104 (x) Integrated services with coordinated planning
105 across child-serving agencies.

106 (2) There is established the Interagency Coordinating
107 Council for Children and Youth (hereinafter referred to as the
108 "ICCCY"). The ICCCY shall consist of the following membership:
109 (a) the State Superintendent of Public Education; (b) the
110 Executive Director of the Mississippi Department of Mental Health;
111 (c) the Executive Director of the State Department of Health; (d)
112 the Executive Director of the Department of Human Services; (e)
113 the Executive Director of the Division of Medicaid, Office of the
114 Governor; (f) the Executive Director of the State Department of
115 Rehabilitation Services; and (g) the Executive Director of
116 Mississippi Families as Allies for Children's Mental Health, Inc.
117 The council shall meet before August 1, 2001, and shall organize
118 for business by selecting a chairman, who shall serve for a
119 one-year term and may not serve consecutive terms. The council
120 shall adopt internal organizational procedures necessary for
121 efficient operation of the council. Each member of the council
122 shall designate necessary staff of their departments to assist the
123 ICCCY in performing its duties and responsibilities. The ICCCY
124 shall meet and conduct business at least twice annually. The
125 chairman of the ICCCY shall notify all persons who request such
126 notice as to the date, time and place of each meeting.

127 (3) The Interagency System of Care Council is created to
128 serve as the state management team for the ICCCY, with the
129 responsibility of collecting and analyzing data and funding
130 strategies necessary to improve the operation of the System of
131 Care programs, and to make recommendations to the ICCCY and to the
132 Legislature concerning such strategies on or before December 31,
133 2002. The System of Care Council also has the responsibility of
134 coordinating the local Multidisciplinary Assessment and Planning
135 (MAP) teams and may apply for grants from public and private
136 sources necessary to carry out its responsibilities. The

137 Interagency System of Care Council shall be comprised of one (1)
138 member from each of the appropriate child-serving divisions or
139 sections of the State Department of Health, the Department of
140 Human Services, the State Department of Mental Health, the State
141 Department of Education, the Division of Medicaid of the
142 Governor's Office, the Department of Rehabilitation Services, a
143 family member representing a family education and support 501(c)3
144 organization, a representative from the Council of Administrators
145 for Special Education/Mississippi Organization of Special
146 Education Supervisors (CASE/MOSES) and a family member designated
147 by Mississippi Families as Allies for Children's Mental Health,
148 Inc. Appointments to the Interagency System of Care Council shall
149 be made within sixty (60) days after the effective date of this
150 act. The council shall organize by selecting a chairman from its
151 membership to serve on an annual basis, and the chairman may not
152 serve consecutive terms.

153 (4) (a) There is established a statewide system of local
154 Multidisciplinary Assessment and Planning Resource (MAP) teams.
155 The MAP teams shall be comprised of one (1) representative each at
156 the county level from the major child-serving public agencies for
157 education, human services, health, mental health and
158 rehabilitative services approved by respective state agencies of
159 the Department of Education, the Department of Human Services, the
160 Department of Health, the Department of Mental Health and the
161 Department of Rehabilitation Services. Three (3) additional
162 members may be added to each team, one (1) of which may be a
163 representative of a family education/support 501(c)3 organization
164 with statewide recognition and specifically established for the
165 population of children defined in Section 43-14-1. The remaining
166 two (2) members will be representatives of significant
167 community-level stakeholders with resources that can benefit the
168 population of children defined in Section 43-14-1.

169 (b) For each local existing MAP team that is
170 established pursuant to paragraph (a) of this subsection, there
171 shall also be established an "A" (Adolescent) team which shall
172 work with a MAP team. The "A" teams shall provide System of Care
173 services for nonviolent youthful offenders who have serious
174 behavioral or emotional disorders. Each "A" team shall be
175 comprised of, at a minimum, the following four (4) members:

- 176 (i) A school counselor;
177 (ii) A community mental health professional;
178 (iii) A social services/child welfare
179 professional; and
180 (iv) A youth court counselor.

181 (5) The Interagency Coordinating Council for Children and
182 Youth may provide input relative to how each agency utilizes its
183 federal and state statutes, policy requirements and funding
184 streams to identify and/or serve children and youth in the
185 population defined in Section 43-14-1. The ICCCY shall support
186 the implementation of the plans of the respective state agencies
187 for comprehensive multidisciplinary care, treatment and placement
188 of these children.

189 (6) The ICCCY shall oversee a pool of state funds that may
190 be contributed by each participating state agency and additional
191 funds from the Mississippi Tobacco Health Care Expenditure Fund,
192 subject to specific appropriation therefor by the Legislature.
193 Part of this pool of funds shall be available for increasing the
194 present funding levels by matching Medicaid funds in order to
195 increase the existing resources available for necessary
196 community-based services for Medicaid beneficiaries.

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

200 (8) Each local MAP team shall serve as the single point of
201 entry to ensure that comprehensive diagnosis and assessment occur

202 and shall coordinate needed services through the local
203 coordinating care entity for the children named in subsection (1).
204 Local children in crisis shall have first priority for access to
205 the MAP team processes and local System of Care programs.

206 (9) The Interagency Coordinating Council for Children and
207 Youth shall facilitate monitoring of the performance of local MAP
208 teams.

209 (10) Each state agency named in subsection (2) of this
210 section shall enter into a binding interagency agreement to
211 participate in the oversight of the statewide System of Care
212 programs for the children and youth described in this section.
213 The agreement shall be signed and in effect by July 1 of each
214 year.

215 (11) This section shall stand repealed from and after July
216 1, 2007.

217 **SECTION 3.** Section 43-14-5, Mississippi Code of 1972, is
218 amended as follows:

219 43-14-5. There is created in the State Treasury a special
220 fund into which shall be deposited all funds contributed by the
221 Department of Human Services, State Department of Health,
222 Department of Mental Health, State Department of Rehabilitation
223 Services insofar as recipients are otherwise eligible under the
224 Rehabilitation Act of 1973, as amended, and State Department of
225 Education for the operation of a statewide System of Care by MAP
226 teams and "A" teams utilizing such funds as may be made available
227 to those MAP teams through a Request for Proposal (RFP) approved
228 by the ICCCY.

229 This section shall stand repealed from and after July 1,
230 2007.

231 **SECTION 4.** Section 43-21-105, Mississippi Code of 1972, is
232 amended as follows:

233 43-21-105. The following words and phrases, for purposes of
234 this chapter, shall have the meanings ascribed herein unless the
235 context clearly otherwise requires:

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

237 (b) "Judge" means the judge of the Youth Court
238 Division.

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

243 (d) "Child" and "youth" are synonymous, and each means
244 a person who has not reached his eighteenth birthday. A child who
245 has not reached his eighteenth birthday and is on active duty for
246 a branch of the armed services or is married is not considered a
247 "child" or "youth" for the purposes of this chapter.

248 (e) "Parent" means the father or mother to whom the
249 child has been born, or the father or mother by whom the child has
250 been legally adopted.

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

253 (g) "Custodian" means any person having the present
254 care or custody of a child whether such person be a parent or
255 otherwise.

256 (h) "Legal custodian" means a court-appointed custodian
257 of the child.

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

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

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

269 (i) Is habitually disobedient of reasonable and
270 lawful commands of his parent, guardian or custodian and is
271 ungovernable; or

272 (ii) While being required to attend school,
273 willfully and habitually violates the rules thereof or willfully
274 and habitually absents himself therefrom; or

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

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

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

278 (i) Whose parent, guardian or custodian or any
279 person responsible for his care or support, neglects or refuses,
280 when able so to do, to provide for him proper and necessary care
281 or support, or education as required by law, or medical, surgical,
282 or other care necessary for his well-being; provided, however, a
283 parent who withholds medical treatment from any child who in good
284 faith is under treatment by spiritual means alone through prayer
285 in accordance with the tenets and practices of a recognized church
286 or religious denomination by a duly accredited practitioner
287 thereof shall not, for that reason alone, be considered to be
288 neglectful under any provision of this chapter; or

289 (ii) Who is otherwise without proper care,
290 custody, supervision or support; or

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

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

296 (m) "Abused child" means a child whose parent, guardian
297 or custodian or any person responsible for his care or support,
298 whether legally obligated to do so or not, has caused or allowed

299 to be caused upon said child sexual abuse, sexual exploitation,
300 emotional abuse, mental injury, nonaccidental physical injury or
301 other maltreatment. Provided, however, that physical discipline,
302 including spanking, performed on a child by a parent, guardian or
303 custodian in a reasonable manner shall not be deemed abuse under
304 this section.

305 (n) "Sexual abuse" means obscene or pornographic
306 photographing, filming or depiction of children for commercial
307 purposes, or the rape, molestation, incest, prostitution or other
308 such forms of sexual exploitation of children under circumstances
309 which indicate that the child's health or welfare is harmed or
310 threatened.

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

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

320 (q) "Custody" means the physical possession of the
321 child by any person.

322 (r) "Legal custody" means the legal status created by a
323 court order which gives the legal custodian the responsibilities
324 of physical possession of the child and the duty to provide him
325 with food, shelter, education and reasonable medical care, all
326 subject to residual rights and responsibilities of the parent or
327 guardian of the person.

328 (s) "Detention" means the care of children in
329 physically restrictive facilities.

330 (t) "Shelter" means care of children in physically
331 nonrestrictive facilities.

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

334 (i) All youth court records as defined in Section
335 43-21-251;

336 (ii) All social records as defined in Section
337 43-21-253;

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

340 (iv) All agency records as defined in Section
341 43-21-257; and

342 (v) All other documents maintained by any
343 representative of the state, county, municipality or other public
344 agency insofar as they relate to the apprehension, custody,
345 adjudication or disposition of a child who is the subject of a
346 youth court cause.

347 (v) "Any person responsible for care or support" means
348 the person who is providing for the child at a given time. This
349 term shall include, but is not limited to, stepparents, foster
350 parents, relatives, nonlicensed babysitters or other similar
351 persons responsible for a child and staff of residential care
352 facilities and group homes that are licensed by the Department of
353 Human Services.

354 (w) The singular includes the plural, the plural the
355 singular and the masculine the feminine when consistent with the
356 intent of this chapter.

357 (x) "Out-of-home" setting means the temporary
358 supervision or care of children by the staff of licensed day care
359 centers, the staff of public, private and state schools, the staff
360 of juvenile detention facilities, the staff of unlicensed
361 residential care facilities and group homes and the staff of, or
362 individuals representing, churches, civic or social organizations.

363 (y) "Durable legal custody" means the legal status
364 created by a court order which gives the durable legal custodian

365 the responsibilities of physical possession of the child and the
366 duty to provide him with care, nurture, welfare, food, shelter,
367 education and reasonable medical care. All these duties as
368 enumerated are subject to the residual rights and responsibilities
369 of the natural parent(s) or guardian(s) of the child or children.

370 (z) "Status offense" means conduct subject to
371 adjudication by the youth court that would not be a crime if
372 committed by an adult.

373 **SECTION 5.** Section 43-21-321, Mississippi Code of 1972, is
374 amended as follows:

375 43-21-321. (1) All juveniles shall undergo a health
376 screening within one (1) hour of admission to any juvenile
377 detention center, or as soon thereafter as reasonably possible.
378 Information obtained during the screening shall include, but shall
379 not be limited to, the juvenile's:

- 380 (a) Mental health;
- 381 (b) Suicide risk;
- 382 (c) Alcohol and other drug use and abuse;
- 383 (d) Physical health;
- 384 (e) Aggressive behavior;
- 385 (f) Family relations;
- 386 (g) Peer relations;
- 387 (h) Social skills;
- 388 (i) Educational status; and
- 389 (j) Vocational status.

390 (2) If the screening instrument indicates that a juvenile is
391 in need of emergency medical care or mental health intervention
392 services, the detention staff shall refer those juveniles to the
393 proper health care facility or community mental health service
394 provider for further evaluation, as soon as reasonably possible.

395 If the screening instrument, such as the Massachusetts Youth
396 Screening Instrument version 2 (MAYSI-2) or other comparable
397 mental health screening instrument indicates that the juvenile is

398 in need of emergency medical care or mental health intervention
399 services, the detention staff shall refer the juvenile to the
400 proper health care facility or mental health service provider for
401 further evaluation, recommendation and referral for treatment, if
402 necessary, within forty-eight (48) hours, excluding Saturdays,
403 Sundays and statutory state holidays.

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

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

411 (a) Determine that the juvenile is legally committed to
412 the facility;

413 (b) Make a complete search of the juvenile and his
414 possessions;

415 (c) Dispose of personal property;

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

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

418 (f) Issue personal hygiene articles;

419 (g) Perform medical, dental and mental health
420 screening;

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

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

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

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

427 (l) Provide written orientation materials to the
428 juvenile.

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

- 431 (a) An educational program;
- 432 (b) A visitation program with parents and guardians;
- 433 (c) Private communications with visitors and staff;
- 434 (d) Counseling;
- 435 (e) Continuous supervision of living units;
- 436 (f) Medical service;
- 437 (g) Food service;
- 438 (h) Recreation and exercise program; and
- 439 (i) Reading materials.

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

442 (7) Programs and professional services may be provided by
443 the detention staff, youth court staff or the staff of the local
444 or state agencies, or those programs and professional services may
445 be provided through contractual arrangements with community
446 agencies.

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

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

452 **SECTION 6.** Section 43-21-605, Mississippi Code of 1972, is
453 amended as follows:

454 43-21-605. (1) In delinquency cases, the disposition order
455 may include any of the following alternatives:

- 456 (a) Release the child without further action;
- 457 (b) Place the child in the custody of the parents, a
458 relative or other persons subject to any conditions and
459 limitations, including restitution, as the youth court may
460 prescribe;

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

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

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

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

476 (g) Give legal custody of the child to any of the
477 following:

478 (i) The Department of Human Services for
479 appropriate placement; or

480 (ii) Any public or private organization,
481 preferably community-based, able to assume the education, care and
482 maintenance of the child, which has been found suitable by the
483 court; or

484 (iii) The Department of Human Services for
485 placement in a wilderness training program or the Division of
486 Youth Services for placement in a state-supported training school,
487 except that no child under the age of ten (10) years shall be
488 committed to a state training school, and no first-time nonviolent
489 youth offenders shall be committed to a state training school
490 until all other options provided for in this section have been
491 considered and the court makes a specific finding of fact that
492 commitment is appropriate. The training school may retain custody
493 of the child until the child's twentieth birthday but for no
494 longer. When the child is committed to a training school, the
495 child shall remain in the legal custody of the training school
496 until the child has made sufficient progress in treatment and

497 rehabilitation and it is in the best interest of the child to
498 release the child. However, the superintendent of a state
499 training school, in consultation with the treatment team, may
500 parole a child at any time he may deem it in the best interest and
501 welfare of such child. Twenty (20) days prior to such parole, the
502 training school shall notify the committing court of the pending
503 release. The youth court may then arrange subsequent placement
504 after a reconvened disposition hearing, except that the youth
505 court may not recommit the child to the training school or any
506 other secure facility without an adjudication of a new offense or
507 probation or parole violation. Prior to assigning the custody of
508 any child to any private institution or agency, the youth court
509 through its designee shall first inspect the physical facilities
510 to determine that they provide a reasonable standard of health and
511 safety for the child. No child shall be placed in the custody of
512 a state training school for a status offense or for contempt of or
513 revocation of a status offense adjudication unless the child is
514 contemporaneously adjudicated for having committed an act of
515 delinquency that is not a status offense;

516 (h) Recommend to the child and the child's parents or
517 guardian that the child attend and participate in the Youth
518 Challenge Program under the Mississippi National Guard, as created
519 in Section 43-27-203, subject to the selection of the child for
520 the program by the National Guard; however, the child must
521 volunteer to participate in the program. The youth court shall
522 not order any child to apply or attend the program;

523 (i) (i) Adjudicate the juvenile to the Statewide
524 Juvenile Work Program if the program is established in the court's
525 jurisdiction. The juvenile and his parents or guardians must sign
526 a waiver of liability in order to participate in the work program.
527 The judge will coordinate with the youth services counselors as to
528 placing participants in the work program;

529 (ii) The severity of the crime, whether or not the
530 juvenile is a repeat offender or is a felony offender will be
531 taken into consideration by the judge when adjudicating a juvenile
532 to the work program. The juveniles adjudicated to the work
533 program will be supervised by police officers or reserve officers.
534 The term of service will be from twenty-four (24) to one hundred
535 twenty (120) hours of community service. A juvenile will work the
536 hours to which he was adjudicated on the weekends during school
537 and weekdays during the summer. Parents are responsible for a
538 juvenile reporting for work. Noncompliance with an order to
539 perform community service will result in a heavier adjudication.
540 A juvenile may be adjudicated to the community service program
541 only two (2) times;

542 (iii) The judge shall assess an additional fine on
543 the juvenile which will be used to pay the costs of implementation
544 of the program and to pay for supervision by police officers and
545 reserve officers. The amount of the fine will be based on the
546 number of hours to which the juvenile has been adjudicated;

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

549 (k) Order the child into a juvenile detention center
550 operated by the county or into a juvenile detention center
551 operated by any county with which the county in which the court is
552 located has entered into a contract for the purpose of housing
553 delinquents. The time period for such detention cannot exceed
554 ninety (90) days. The youth court judge may order that the number
555 of days specified in the detention order be served either
556 throughout the week or on weekends only.

557 (2) In addition to any of the disposition alternatives
558 authorized under subsection (1) of this section, the disposition
559 order in any case in which the child is adjudicated delinquent for
560 an offense under Section 63-11-30 shall include an order denying

561 the driver's license and driving privileges of the child as
562 required under * * * Section 63-11-30(9).

563 (3) If the youth court places a child in a state-supported
564 training school, the court may order the parents or guardians of
565 the child and other persons living in the child's household to
566 receive counseling and parenting classes for rehabilitative
567 purposes while the child is in the legal custody of the training
568 school. A youth court entering an order under this subsection (3)
569 shall utilize appropriate services offered either at no cost or
570 for a fee calculated on a sliding scale according to income unless
571 the person ordered to participate elects to receive other
572 counseling and classes acceptable to the court at the person's
573 sole expense.

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

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

581 (6) The youth court shall not place a child in another
582 school district who has been expelled from a school district for
583 the commission of a violent act. For the purpose of this
584 subsection, "violent act" means any action which results in death
585 or physical harm to another or an attempt to cause death or
586 physical harm to another.

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

593 **SECTION 7.** Section 43-27-201, Mississippi Code of 1972, is
594 amended as follows:

595 43-27-201. (1) The purpose of this section is to outline
596 and structure a long-range proposal in addition to certain
597 immediate objectives for improvements in the juvenile correctional
598 facilities of the Division of Youth Services of the Mississippi
599 Department of Human Services in order to provide modern and
600 efficient correctional and rehabilitation facilities for juvenile
601 offenders in Mississippi, who are committing an increasing
602 percentage of serious and violent crimes.

603 (2) The Department of Finance and Administration, acting
604 through the Bureau of Building, Grounds and Real Property
605 Management, using funds from bonds issued under this chapter,
606 monies appropriated by the Legislature for such purposes, federal
607 matching or other federal funds, federal grants or other available
608 funds from whatever source, shall provide for, by construction,
609 lease, lease-purchase or otherwise, and equip the following
610 juvenile correctional facilities under the jurisdiction and
611 responsibility of the Division of Youth Services of the Department
612 of Human Services:

613 (a) Construct an additional one-hundred-fifty-bed,
614 stand-alone, medium security juvenile correctional facility for
615 habitual violent male offenders, which complies with American
616 Correctional Association Accreditation standards and applicable
617 building and fire safety codes. The medium security, male
618 juvenile facility location shall be on property owned by the
619 Division of Youth Services, or its successor, or at a site
620 selected by the Bureau of Building, Grounds and Real Property
621 Management on land which is hereafter donated to the state
622 specifically for the location of such facility.

623 (b) Construct an additional one-hundred-bed minimum
624 security juvenile correctional facility for female offenders, and
625 an additional stand-alone, fifteen-bed maximum security juvenile

626 correctional facility for female offenders, which complies with
627 American Correctional Association Accreditation standards and
628 applicable building and fire safety codes. The minimum security
629 and maximum security female juvenile facilities location shall be
630 on property owned by the Division of Youth Services, or its
631 successor, or at a site selected by the Bureau of Building,
632 Grounds and Real Property Management on land which is hereafter
633 donated to the state specifically for the location of such
634 facility.

635 (3) Upon the selection of a proposed site for a correctional
636 facility for juveniles authorized under subsection (2), the Bureau
637 of Building, Grounds and Real Property Management of the
638 Department of Finance and Administration shall notify the board of
639 supervisors of the county in which such facility is proposed to be
640 located and shall publish a notice as hereinafter set forth in a
641 newspaper having general circulation in such county. Such notice
642 shall include a description of the tract of land in the county
643 whereon the facility is proposed to be located, the nature and
644 size of the facility and the date on which the determination of
645 the Bureau of Building, Grounds and Real Property Management shall
646 be final as to the location of such facility, which date shall not
647 be less than forty-five (45) days following the first publication
648 of such notice. Such notice shall include a brief summary of the
649 provisions of this section pertaining to the petition for an
650 election on the question of the location of the juvenile housing
651 facility in such county. Such notice shall be published not less
652 than one (1) time each week for at least three (3) consecutive
653 weeks in at least one (1) newspaper published in such county.

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

657 If at any time before the aforesaid date a petition signed by
658 twenty percent (20%), or fifteen hundred (1,500), whichever is

659 less, of the qualified electors of the county involved shall be
660 filed with the board of supervisors requesting that an election be
661 called on the question of locating such facility, then the board
662 of supervisors shall adopt a resolution calling an election to be
663 held within such county upon the question of the location of such
664 facility. Such election shall be held, as far as practicable, in
665 the same manner as other elections are held in counties. At such
666 election, all qualified electors of the county may vote, and the
667 ballots used at such election shall have printed thereon a brief
668 statement of the facility to be constructed and the words "For the
669 construction of the facility in (here insert county name) County"
670 and "Against the construction of the facility in (here insert
671 county name) County." The voter shall vote by placing a cross (X)
672 or check mark (✓) opposite his choice on the proposition. When
673 the results of the election on the question of the construction of
674 the facility shall have been canvassed by the election
675 commissioners of the county and certified by them to the board of
676 supervisors, it shall be the duty of the board of supervisors to
677 determine and adjudicate whether or not a majority of the
678 qualified electors who voted thereon in such election voted in
679 favor of the construction of the facilities in such county.
680 Unless a majority of the qualified electors who voted in such
681 election shall have voted in favor of the construction of the
682 facilities in such county, then such facility shall not be
683 constructed in such county.

684 (4) The Division of Youth Services shall establish, maintain
685 and operate an Adolescent Offender Program (AOP), which may
686 include non-Medicaid assistance eligible juveniles. Beginning
687 July 1, 2006, subject to availability of funds appropriated
688 therefor by the Legislature, the Division of Youth Services shall
689 phase in AOPs in every county of the state over a period of four
690 (4) years. The phase-in of the AOPs shall be as follows:

691 (a) As of July 1, 2007, not less than twenty (20)
692 counties shall be served by at least one (1) AOP;

693 (b) As of July 1, 2008, not less than forty (40)
694 counties shall be served by at least one (1) AOP;

695 (c) As of July 1, 2009, not less than sixty (60)
696 counties shall be served by at least one (1) AOP; and

697 (d) As of July 1, 2010, all eighty-two (82) counties
698 shall be served by at least one (1) AOP.

699 AOP professional services, salaries, facility offices,
700 meeting rooms and related supplies and equipment may be provided
701 through contract with local mental health or other nonprofit
702 community organizations.

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

710 (6) The Division of Youth Services shall establish a ten-bed
711 transitional living facility for the temporary holding of training
712 school adolescents who have reached their majority, have completed
713 the GED requirement, and are willing to be rehabilitated until
714 they are placed in jobs, job training or postsecondary programs.
715 Such transitional living facility may be operated pursuant to
716 contract with a nonprofit community support organization.

717 **SECTION 8.** Section 43-27-401, Mississippi Code of 1972, is
718 amended as follows:

719 43-27-401. (1) The Department of Human Services, Division
720 of Youth Services, shall establish a pilot program to be known as
721 the "Amer-I-Can Program." The program is designed for youths who
722 have been committed to or are confined in Columbia or Oakley
723 Training Schools. The objectives of this program are:

724 (a) To develop greater self-esteem, assume responsible
725 attitudes and experience a restructuring of habits and
726 conditioning processes;

727 (b) To develop an appreciation of family members and an
728 understanding of the role family structure has in achieving
729 successful living;

730 (c) To develop an understanding of the concept of
731 community and collective responsibility;

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

735 (e) To develop skills in money management and financial
736 stability, thus relieving pressures that have contributed to
737 previous difficulties;

738 (f) To develop communication skills to better express
739 thoughts and ideas while acquiring an understanding of and respect
740 for the thoughts and ideas of others; and

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

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

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

748 * * *

749 **SECTION 9.** Section 47-5-138, Mississippi Code of 1972, is
750 amended as follows:

751 47-5-138. (1) The department may promulgate rules and
752 regulations to carry out an earned time allowance program based on
753 the good conduct and performance of an inmate. An inmate is
754 eligible to receive an earned time allowance of one-half (1/2) of
755 the period of confinement imposed by the court except those
756 inmates excluded by law. When an inmate is committed to the

757 custody of the department, the department shall determine a
758 conditional earned time release date by subtracting the earned
759 time allowance from an inmate's term of sentence. This subsection
760 does not apply to any sentence imposed after June 30, 1995.

761 (2) An inmate may forfeit all or part of his earned time
762 allowance for a serious violation of rules. No forfeiture of the
763 earned time allowance shall be effective except upon approval of
764 the commissioner or his designee, and forfeited earned time may
765 not be restored.

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

771 (b) On receipt of a final order, the department shall
772 forfeit:

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

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

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

782 (c) The department may not restore earned time
783 forfeited under this subsection.

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

787 (5) For any sentence imposed after June 30, 1995, an inmate
788 may receive an earned time allowance of four and one-half (4-1/2)
789 days for each thirty (30) days served if the department determines

790 that the inmate has complied with the good conduct and performance
791 requirements of the earned time allowance program. The earned
792 time allowance under this subsection shall not exceed fifteen
793 percent (15%) of an inmate's term of sentence; however, beginning
794 July 1, 2006, no person under the age of twenty-one (21) who has
795 committed a nonviolent offense, and who is under the jurisdiction
796 of the Department of Corrections, shall be subject to the fifteen
797 percent (15%) limitation for earned time allowances as described
798 in this subsection (5).

799 (6) Any inmate, who is released before the expiration of his
800 term of sentence under this section, shall be placed under
801 earned-release supervision until the expiration of the term of
802 sentence. The inmate shall retain inmate status and remain under
803 the jurisdiction of the department. The period of earned-release
804 supervision shall be conducted in the same manner as a period of
805 supervised parole. The department shall develop rules, terms and
806 conditions for the earned-release supervision program. The
807 commissioner shall designate the appropriate hearing officer
808 within the department to conduct revocation hearings for inmates
809 violating the conditions of earned-release supervision.

810 (7) If the earned-release supervision is revoked, the inmate
811 shall serve the remainder of the sentence and the time the inmate
812 was on earned-release supervision, shall not be applied to and
813 shall not reduce his sentence.

814 **SECTION 10.** This act shall take effect and be in force from
815 and after July 1, 2005.