

House Amendments to Senate Bill No. 2366

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

13 **SECTION 1.** Section 43-21-603, Mississippi Code of 1972, is
14 amended as follows:

15 * * *

16 43-21-603. (1) At the beginning of each disposition
17 hearing, the judge shall inform the parties of the purpose of the
18 hearing.

19 (2) All testimony shall be under oath unless waived by all
20 parties and may be in narrative form. The court may consider any
21 evidence that is material and relevant to the disposition of the
22 cause, including hearsay and opinion evidence. At the conclusion
23 of the evidence, the youth court shall give the parties an
24 opportunity to present oral argument.

25 (3) If the child has been adjudicated a delinquent child,
26 before entering a disposition order, the youth court should
27 consider, among others, the following relevant factors:

28 (a) The nature of the offense;

29 (b) The manner in which the offense was committed;

30 (c) The nature and number of a child's prior
31 adjudicated offenses;

32 (d) The child's need for care and assistance;

33 (e) The child's current medical history, including
34 medication and diagnosis;

35 (f) The child's mental health history, which may
36 include, but not be limited to, the Massachusetts Youth Screening
37 Instrument version 2 (MAYSI-2);

38 (g) Copies of the child's cumulative record from the
39 last school of record, including special education records, if
40 applicable;

41 (h) Recommendation from the school of record based on
42 areas of remediation needed;

43 (i) Disciplinary records from the school of record; and

44 (j) Records of disciplinary actions outside of the
45 school setting.

46 (4) If the child has been adjudicated a child in need of
47 supervision, before entering a disposition order, the youth court
48 should consider, among others, the following relevant factors:

49 (a) The nature and history of the child's conduct;

50 (b) The family and home situation; and

51 (c) The child's need of care and assistance.

52 (5) If the child has been adjudicated a neglected child or
53 an abused child, before entering a disposition order, the youth
54 court shall consider, among others, the following relevant
55 factors:

56 (a) The child's physical and mental conditions;

57 (b) The child's need of assistance;

58 (c) The manner in which the parent, guardian or
59 custodian participated in, tolerated or condoned the abuse,
60 neglect or abandonment of the child;

61 (d) The ability of a child's parent, guardian or
62 custodian to provide proper supervision and care of a child; and

63 (e) Relevant testimony and recommendations, where
64 available, from the foster parent of the child, the grandparents
65 of the child, the guardian ad litem of the child, representatives
66 of any private care agency that has cared for the child, the
67 social worker or child protection specialist assigned to the case,
68 and any other relevant testimony pertaining to the case.

69 (6) After consideration of all the evidence and the relevant
70 factors, the youth court shall enter a disposition order that
71 shall not recite any of the facts or circumstances upon which the
72 disposition is based, nor shall it recite that a child has been

73 found guilty; but it shall recite that a child is found to be a
74 delinquent child, a child in need of supervision, a neglected
75 child or an abused child.

76 (7) If the youth court orders that the custody or
77 supervision of a child who has been adjudicated abused or
78 neglected be placed with the Department of Human Services or any
79 other person or public or private agency, other than the child's
80 parent, guardian or custodian, the youth court shall find and the
81 disposition order shall recite that:

82 (a) (i) Reasonable efforts have been made to maintain
83 the child within his own home, but that the circumstances warrant
84 his removal and there is no reasonable alternative to custody; or

85 (ii) The circumstances are of such an emergency
86 nature that no reasonable efforts have been made to maintain the
87 child within his own home, and that there is no reasonable
88 alternative to custody; and

89 (b) That the effect of the continuation of the child's
90 residence within his own home would be contrary to the welfare of
91 the child and that the placement of the child in foster care is in
92 the best interests of the child; or

93 (c) Reasonable efforts to maintain the child within his
94 home shall not be required if the court determines that:

95 (i) The parent has subjected the child to
96 aggravated circumstances, including, but not limited to,
97 abandonment, torture, chronic abuse and sexual abuse; or

98 (ii) The parent has been convicted of murder of
99 another child of that parent, voluntary manslaughter of another
100 child of that parent, aided or abetted, attempted, conspired or
101 solicited to commit that murder or voluntary manslaughter, or a
102 felony assault that results in the serious bodily injury to the
103 surviving child or another child of that parent; or

104 (iii) The parental rights of the parent to a
105 sibling have been terminated involuntarily; and

106 (iv) That the effect of the continuation of the
107 child's residence within his own home would be contrary to the

108 welfare of the child and that placement of the child in foster
109 care is in the best interests of the child.

110 Once the reasonable efforts requirement is bypassed, the
111 court shall have a permanency hearing under Section 43-21-613
112 within thirty (30) days of the finding.

113 (8) Upon a written motion by a party, the youth court shall
114 make written findings of fact and conclusions of law upon which it
115 relies for the disposition order. If the disposition ordered by
116 the youth court includes placing the child in the custody of a
117 training school, an admission packet shall be prepared for the
118 child that contains the following information:

119 (a) The child's current medical history, including
120 medications and diagnosis;

121 (b) The child's mental health history;

122 (c) Copies of the child's cumulative record from the
123 last school of record, including special education records, if
124 reasonably available;

125 (d) Recommendation from the school of record based on
126 areas of remediation needed;

127 (e) Disciplinary records from the school of record; and

128 (f) Records of disciplinary actions outside of the
129 school setting, if reasonably available.

130 Only individuals who are permitted under the Health Insurance
131 Portability and Accountability Act of 1996 (HIPAA) shall have
132 access to a child's medical records which are contained in an
133 admission packet. The youth court shall provide the admission
134 packet to the training school at or before the child's arrival at
135 the training school. The admittance of any child to a training
136 school shall take place between the hours of 8:00 a.m. and 3:00
137 p.m. on designated admission days.

138 (9) When a child in the jurisdiction of the Youth Court is
139 committed to the custody of the Mississippi Department of Human
140 Services and is believed to be in need of treatment for a mental
141 or emotional disability or infirmity, the Department of Human
142 Services shall file an affidavit alleging that the child is in

143 need of mental health services with the Youth Court. The Youth
144 Court shall refer the child to the appropriate community mental
145 health center for evaluation pursuant to Section 41-21-67. If
146 said pre-screening evaluation recommends residential care, the
147 Youth Court shall proceed with civil commitment pursuant to
148 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
149 Department of Mental Health, once commitment is ordered, shall
150 provide appropriate care, treatment and services for at least as
151 many adolescents as were provided services in fiscal year 2004 in
152 its facilities.

153 * * *

154 **SECTION 2.** Section 43-21-605, Mississippi Code of 1972, is
155 amended as follows:

156 43-21-605. (1) In delinquency cases, the disposition order
157 may include any of the following alternatives:

158 (a) Release the child without further action;

159 (b) Place the child in the custody of the parents, a
160 relative or other persons subject to any conditions and
161 limitations, including restitution, as the youth court may
162 prescribe;

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

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

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

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

178 (g) Give legal custody of the child to any of the
179 following:

180 (i) The Department of Human Services for
181 appropriate placement; or

182 (ii) Any public or private organization,
183 preferably community-based, able to assume the education, care and
184 maintenance of the child, which has been found suitable by the
185 court; or

186 (iii) The Department of Human Services for
187 placement in a wilderness training program or a state-supported
188 training school, except that no child under the age of ten (10)
189 years shall be committed to a state training school. The training
190 school may retain custody of the child until the child's twentieth
191 birthday but for no longer. The superintendent of a state
192 training school may parole a child at any time he may deem it in
193 the best interest and welfare of such child. Twenty (20) days
194 prior to such parole, the training school shall notify the
195 committing court of the pending release. The youth court may then
196 arrange subsequent placement after a reconvened disposition
197 hearing except that the youth court may not recommit the child to
198 the training school or any other secure facility without an
199 adjudication of a new offense or probation or parole violation.
200 Prior to assigning the custody of any child to any private
201 institution or agency, the youth court through its designee shall
202 first inspect the physical facilities to determine that they
203 provide a reasonable standard of health and safety for the child.
204 No child shall be placed in the custody of a state training school
205 for a status offense or for contempt of or revocation of a status
206 offense adjudication unless the child is contemporaneously
207 adjudicated for having committed an act of delinquency that is not
208 a status offense;

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

213 the program by the National Guard; however, the child must
214 volunteer to participate in the program. The youth court may not
215 order any child to apply or attend the program;

216 (i) (i) Adjudicate the juvenile to the Statewide
217 Juvenile Work Program if the program is established in the court's
218 jurisdiction. The juvenile and his parents or guardians must sign
219 a waiver of liability in order to participate in the work program.
220 The judge will coordinate with the youth services counselors as to
221 placing participants in the work program;

222 (ii) The severity of the crime, whether or not the
223 juvenile is a repeat offender or is a felony offender will be
224 taken into consideration by the judge when adjudicating a juvenile
225 to the work program. The juveniles adjudicated to the work
226 program will be supervised by police officers or reserve officers.
227 The term of service will be from twenty-four (24) to one hundred
228 twenty (120) hours of community service. A juvenile will work the
229 hours to which he was adjudicated on the weekends during school
230 and week days during the summer. Parents are responsible for a
231 juvenile reporting for work. Noncompliance with an order to
232 perform community service will result in a heavier adjudication.
233 A juvenile may be adjudicated to the community service program
234 only two (2) times;

235 (iii) The judge shall assess an additional fine on
236 the juvenile which will be used to pay the costs of implementation
237 of the program and to pay for supervision by police officers and
238 reserve officers. The amount of the fine will be based on the
239 number of hours to which the juvenile has been adjudicated;

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

242 (k) Order the child into a juvenile detention center
243 operated by the county or into a juvenile detention center
244 operated by any county with which the county in which the court is
245 located has entered into a contract for the purpose of housing
246 delinquents. The time period for such detention cannot exceed
247 ninety (90) days. The youth court judge may order that the number

248 of days specified in the detention order be served either
249 throughout the week or on weekends only.

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

256 (3) If the youth court places a child in a state-supported
257 training school, the court may order the parents or guardians of
258 the child and other persons living in the child's household to
259 receive counseling and parenting classes for rehabilitative
260 purposes while the child is in the legal custody of the training
261 school. A youth court entering an order under this subsection (3)
262 shall utilize appropriate services offered either at no cost or
263 for a fee calculated on a sliding scale according to income unless
264 the person ordered to participate elects to receive other
265 counseling and classes acceptable to the court at the person's
266 sole expense.

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

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

274 (6) The youth court shall not place a child in another
275 school district who has been expelled from a school district for
276 the commission of a violent act. For the purpose of this
277 subsection, "violent act" means any action which results in death
278 or physical harm to another or an attempt to cause death or
279 physical harm to another.

280 (7) The youth court may require drug testing as part of a
281 disposition order. If a child tests positive, the court may
282 require treatment, counseling and random testing, as it deems

283 appropriate. The costs of such tests shall be paid by the parent,
284 guardian or custodian of the child unless the court specifically
285 finds that the parent, guardian or custodian is unable to pay.

286 (8) The Mississippi Department of Human Services, Division
287 of Youth Services, shall operate and maintain services for youth
288 adjudicated delinquent at Columbia and Oakley Training Schools.
289 The program shall be designed for children committed to the
290 training schools by the youth courts. The purpose of the program
291 is to promote good citizenship, self-reliance, leadership and
292 respect for constituted authority, teamwork, cognitive abilities
293 and appreciation of our national heritage. The Division of Youth
294 Services shall issue credit towards academic promotions and high
295 school completion. The Division of Youth Services may award
296 credits to each student who meets the requirements for a general
297 education development certification. The Division of Youth
298 Services must also provide to each special education eligible
299 youth the services required by that youth's individualized
300 education plan.

301 **SECTION 3.** This act shall take effect and be in force from
302 and after July 1, 2005.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE TRANSFER OF COPIES OF A CHILD'S ORIGINAL
3 CUMULATIVE SCHOOL RECORD AS A PREREQUIREMENT TO COMMITMENT TO A
4 STATE TRAINING SCHOOL, AND TO DELETE THE AUTOMATIC REVERTER ON THE
5 CODE SECTION PROVIDING YOUTH COURT DISPOSITION HEARING PROCEDURES
6 AND ALTERNATIVES IN DELINQUENCY, CHILD ABUSE AND CHILD NEGLECT
7 MATTERS; TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972, TO
8 RESTRICT THE CONDUCT FOR WHICH A CHILD MAY BE COMMITTED TO A
9 TRAINING SCHOOL; TO PROVIDE THAT BY JULY 1, 2006, NO FACILITY
10 OPERATED BY THE DIVISION OF YOUTH SERVICES SHALL OPERATE A
11 PARAMILITARY TYPE PROGRAM; AND FOR RELATED PURPOSES.

HR03\SB2366PH.J

Don Richardson
Clerk of the House of Representatives