

By: Representative Carlton

To: Juvenile Justice

HOUSE BILL NO. 184

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

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

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

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

14 (a) Release the child without further action;

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

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

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

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

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

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

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

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

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

42 (iii) The Department of Human Services for
43 placement in a wilderness training program or the Division of
44 Youth Services for placement in a state-supported training school,
45 except that no child under the age of ten (10) years shall be
46 committed to a state training school, and no first-time nonviolent
47 youth offenders shall be committed to a state training school
48 until all other options provided for in this section have been
49 considered and the court makes a specific finding of fact that
50 commitment is appropriate. The training school may retain custody
51 of the child until the child's twentieth birthday but for no
52 longer. When the child is committed to a training school, the
53 child shall remain in the legal custody of the training school
54 until the child has made sufficient progress in treatment and
55 rehabilitation and it is in the best interest of the child to
56 release the child. However, the superintendent of a state
57 training school, in consultation with the treatment team, may
58 parole a child at any time he may deem it in the best interest and
59 welfare of such child. Twenty (20) days prior to such parole, the
60 training school shall notify the committing court of the pending
61 release. The youth court may then arrange subsequent placement
62 after a reconvened disposition hearing, except that the youth

63 court may not recommit the child to the training school or any
64 other secure facility without an adjudication of a new offense or
65 probation or parole violation. Prior to assigning the custody of
66 any child to any private institution or agency, the youth court
67 through its designee shall first inspect the physical facilities
68 to determine that they provide a reasonable standard of health and
69 safety for the child. No child shall be placed in the custody of
70 a state training school for a status offense or for contempt of or
71 revocation of a status offense adjudication unless the child is
72 contemporaneously adjudicated for having committed an act of
73 delinquency that is not a status offense. A disposition order
74 rendered under this subparagraph shall meet the following
75 requirements:

76 1. The disposition is the least restrictive
77 alternative appropriate to the best interest of the child and the
78 community;

79 2. The disposition allows the child to be in
80 reasonable proximity to the family home community of each child
81 given the dispositional alternatives available and the best
82 interest of the child and the state; and

83 3. The disposition order provides that the
84 court has considered the medical, educational, vocational, social
85 and psychological guidance, training, social education,
86 counseling, substance abuse treatment and other rehabilitative
87 services required by that child as determined by the court;

88 (h) Recommend to the child and the child's parents or
89 guardian that the child attend and participate in the Youth
90 Challenge Program under the Mississippi National Guard, as created
91 in Section 43-27-203, subject to the selection of the child for
92 the program by the National Guard; however, the child must
93 volunteer to participate in the program. The youth court shall
94 not order any child to apply or attend the program;

95 (i) (i) Adjudicate the juvenile to the Statewide
96 Juvenile Work Program if the program is established in the court's
97 jurisdiction. The juvenile and his parents or guardians must sign
98 a waiver of liability in order to participate in the work program.
99 The judge will coordinate with the youth services counselors as to
100 placing participants in the work program;

101 (ii) The severity of the crime, whether or not the
102 juvenile is a repeat offender or is a felony offender will be
103 taken into consideration by the judge when adjudicating a juvenile
104 to the work program. The juveniles adjudicated to the work
105 program will be supervised by police officers or reserve officers.
106 The term of service will be from twenty-four (24) to one hundred
107 twenty (120) hours of community service. A juvenile will work the
108 hours to which he was adjudicated on the weekends during school
109 and weekdays during the summer. Parents are responsible for a
110 juvenile reporting for work. Noncompliance with an order to
111 perform community service will result in a heavier adjudication.
112 A juvenile may be adjudicated to the community service program
113 only two (2) times;

114 (iii) The judge shall assess an additional fine on
115 the juvenile which will be used to pay the costs of implementation
116 of the program and to pay for supervision by police officers and
117 reserve officers. The amount of the fine will be based on the
118 number of hours to which the juvenile has been adjudicated;

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

121 (k) Order the child into a juvenile detention center
122 operated by the county or into a juvenile detention center
123 operated by any county with which the county in which the court is
124 located has entered into a contract for the purpose of housing
125 delinquents. The time period for such detention cannot exceed
126 ninety (90) days, and any detention exceeding forty-five (45) days
127 shall be administratively reviewed by the youth court no later

128 than forty-five (45) days after the entry of the order. The youth
129 court judge may order that the number of days specified in the
130 detention order be served either throughout the week or on
131 weekends only. No first-time nonviolent youth offender shall be
132 committed to a detention center for a period of ninety (90) days
133 until all other options provided for in this section have been
134 considered and the court makes a specific finding of fact that
135 commitment to a detention center is appropriate. However, if a
136 child is committed to a detention center ninety (90) consecutive
137 days, the disposition order shall meet the following requirements:

138 1. The disposition order is the least
139 restrictive alternative appropriate to the best interest of the
140 child and the community;

141 2. The disposition order allows the child to
142 be in reasonable proximity to the family home community of each
143 child given the dispositional alternatives available and the best
144 interest of the child and the state; and

145 3. The disposition order provides that the
146 court has considered the medical, educational, vocational, social
147 and psychological guidance, training, social education,
148 counseling, substance abuse treatment and other rehabilitative
149 services required by that child as determined by the court.

150 (1) Referral to A-team provided system of care
151 services.

152 (2) In addition to any of the disposition alternatives
153 authorized under subsection (1) of this section, the disposition
154 order in any case in which the child is adjudicated delinquent for
155 an offense under Section 63-11-30 shall include an order denying
156 the driver's license and driving privileges of the child as
157 required under Section 63-11-30(9).

158 (3) If the youth court places a child in a state-supported
159 training school, the court may order the parents or guardians of
160 the child and other persons living in the child's household to

161 receive counseling and parenting classes for rehabilitative
162 purposes while the child is in the legal custody of the training
163 school. A youth court entering an order under this subsection (3)
164 shall utilize appropriate services offered either at no cost or
165 for a fee calculated on a sliding scale according to income unless
166 the person ordered to participate elects to receive other
167 counseling and classes acceptable to the court at the person's
168 sole expense.

169 (4) Before returning a child to his or her home upon release
170 from a state-supported training school, the Department of Human
171 Services shall conduct an environmental assessment of the home
172 where such child shall reside after he or she is released. The
173 Department of Human Services shall provide the results of the
174 environmental assessment of the home to the committing court.
175 Before returning the child to the home, the committing court,
176 based upon the assessment, must ensure that the return of the
177 child to the home is in the best interest of the child, and that
178 the home environment will be supportive of the child's
179 rehabilitation.

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

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

187 (7) The youth court shall not place a child in another
188 school district who has been expelled from a school district for
189 the commission of a violent act. For the purpose of this
190 subsection, "violent act" means any action which results in death
191 or physical harm to another or an attempt to cause death or
192 physical harm to another.

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

199 (9) The Mississippi Department of Human Services, Division
200 of Youth Services, shall operate and maintain services for youth
201 adjudicated delinquent at Columbia and Oakley Training Schools.
202 The program shall be designed for children committed to the
203 training schools by the youth courts. The purpose of the program
204 is to promote good citizenship, self-reliance, leadership and
205 respect for constituted authority, teamwork, cognitive abilities
206 and appreciation of our national heritage. The Division of Youth
207 Services shall issue credit towards academic promotions and high
208 school completion. The Division of Youth Services may award
209 credits to each student who meets the requirements for a general
210 education development certification. The Division of Youth
211 Services must also provide to each special education eligible
212 youth the services required by that youth's individualized
213 education plan.

214 **SECTION 2.** This act shall take effect and be in force from
215 and after July 1, 2006.