

By: Representative Flaggs

To: Juvenile Justice

HOUSE BILL NO. 526

1 AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CERTAIN RECORDS INVOLVING A CHILD SHALL BE
3 DISCLOSED TO DEFENSE COUNSEL; TO PROVIDE THAT THE ATTORNEY FOR A
4 CHILD WHO IS ALLEGED TO BE ABUSED OR NEGLECTED OR A CHILD IN NEED
5 OF SUPERVISION OR A CHILD IN NEED OF SPECIAL CARE SHALL HAVE THE
6 RIGHT TO COPY RECORDS, REPORTS OR INVESTIGATIONS THAT ARE TO BE
7 CONSIDERED BY THE YOUTH COURT FOR A HEARING; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 43-21-261, Mississippi Code of 1972, is
11 amended as follows:

12 43-21-261. (1) Except as otherwise provided in this
13 section, records involving children shall not be disclosed, other
14 than to necessary staff of the youth court and defense counsel in
15 delinquency matters, except pursuant to an order of the youth
16 court specifying the person or persons to whom the records may be
17 disclosed, the extent of the records which may be disclosed and
18 the purpose of the disclosure. Such court orders for disclosure
19 shall be limited to those instances in which the youth court
20 concludes, in its discretion, that disclosure is required for the
21 best interests of the child, the public safety or the functioning
22 of the youth court and then only to the following persons:

23 (a) The judge of another youth court or member of
24 another youth court staff;

25 (b) The court of the parties in a child custody or
26 adoption cause in another court;

27 (c) A judge of any other court or members of another
28 court staff;

29 (d) Representatives of a public or private agency
30 providing supervision or having custody of the child under order
31 of the youth court;

32 (e) Any person engaged in a bona fide research purpose,
33 provided that no information identifying the subject of the
34 records shall be made available to the researcher unless it is
35 absolutely essential to the research purpose and the judge gives
36 prior written approval, and the child, through his or her
37 representative, gives permission to release the information;

38 (f) The Mississippi Employment Security Commission, or
39 its duly authorized representatives, for the purpose of a child's
40 enrollment into the Job Corps Training Program as authorized by
41 Title IV of the Comprehensive Employment Training Act of 1973 (29
42 USCS Section 923 et seq.). However, no records, reports,
43 investigations or information derived therefrom pertaining to
44 child abuse or neglect shall be disclosed; and

45 (g) To any person pursuant to a finding by a judge of
46 the youth court of compelling circumstances affecting the health
47 or safety of a child and that such disclosure is in the best
48 interests of the child.

49 Law enforcement agencies may disclose information to the
50 public concerning the taking of a child into custody for the
51 commission of a delinquent act without the necessity of an order
52 from the youth court. The information released shall not identify
53 the child or his address unless the information involves a child
54 convicted as an adult.

55 (2) Any records involving children which are disclosed under
56 an order of the youth court and the contents thereof shall be kept
57 confidential by the person or agency to whom the record is
58 disclosed except as provided in the order. Any further disclosure
59 of any records involving children shall be made only under an
60 order of the youth court as provided in this section.

61 (3) Upon request, the parent, guardian or custodian of the
62 child who is the subject of a youth court cause or any attorney
63 for such child alleged to be abused or neglected or a child in
64 need of supervision or a child in need of special care, parent,
65 guardian or custodian, shall have the right to inspect and copy
66 any record, report or investigation which is to be considered by
67 the youth court at a hearing, except that the identity of the
68 reporter shall not be released, nor the name of any other person
69 where the person or agency making the information available finds
70 that disclosure of the information would be likely to endanger the
71 life or safety of such person.

72 (4) Upon request, the child alleged to be delinquent or a
73 child in need of supervision who is the subject of a youth court
74 cause shall have the right to have his counsel inspect and copy
75 any record, report or investigation which is filed with the youth
76 court.

77 (5) (a) The youth court prosecutor or prosecutors, the
78 county attorney, the district attorney, the youth court defender
79 or defenders, or any attorney representing a child shall have the
80 right to inspect and copy any law enforcement record involving
81 children.

82 (b) The Department of Human Services shall disclose to
83 a county prosecuting attorney or district attorney, and legal
84 defense counsel any and all records resulting from an
85 investigation into suspected child abuse or neglect when the case
86 has been referred by the Department of Human Services to the
87 county prosecuting attorney or district attorney for criminal
88 prosecution.

89 (c) Agency records made confidential under the
90 provisions of this section may be disclosed to a court of
91 competent jurisdiction.

92 (6) Information concerning an investigation into a report of
93 child abuse or child neglect may be disclosed by the Department of

94 Human Services without order of the youth court to any attorney,
95 physician, dentist, intern, resident, nurse, psychologist, social
96 worker, family protection worker, family protection specialist,
97 child caregiver, minister, law enforcement officer, public or
98 private school employee making that report pursuant to Section
99 43-21-353(1) if the reporter has a continuing professional
100 relationship with the child and a need for such information in
101 order to protect or treat the child.

102 (7) Information concerning an investigation into a report of
103 child abuse or child neglect may be disclosed without further
104 order of the youth court to any interagency child abuse task force
105 established in any county or municipality by order of the youth
106 court of that county or municipality.

107 (8) Names and addresses of juveniles twice adjudicated as
108 delinquent for an act which would be a felony if committed by an
109 adult or for the unlawful possession of a firearm shall not be
110 held confidential and shall be made available to the public.

111 (9) Names and addresses of juveniles adjudicated as
112 delinquent for murder, manslaughter, burglary, arson, armed
113 robbery, aggravated assault, any sex offense as defined in Section
114 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
115 violation of Section 63-11-30, shall not be held confidential and
116 shall be made available to the public.

117 (10) The judges of the circuit and county courts, and
118 presentence investigators for the circuit courts, as provided in
119 Section 47-7-9, shall have the right to inspect any youth court
120 records of a person convicted of a crime for sentencing purposes
121 only.

122 (11) The victim of an offense committed by a child who is
123 the subject of a youth court cause shall have the right to be
124 informed of the child's disposition by the youth court.

125 (12) A classification hearing officer of the State
126 Department of Corrections, as provided in Section 47-5-103, shall

127 have the right to inspect any youth court records, excluding abuse
128 and neglect records, of any offender in the custody of the
129 department who as a child or minor was a juvenile offender or was
130 the subject of a youth court cause of action, and the State Parole
131 Board, as provided in Section 47-7-17, shall have the right to
132 inspect such records when the offender becomes eligible for
133 parole.

134 (13) The youth court shall notify the Department of Public
135 Safety of the name, and any other identifying information such
136 department may require, of any child who is adjudicated delinquent
137 as a result of a violation of the Uniform Controlled Substances
138 Law.

139 (14) The Administrative Office of Courts shall have the
140 right to inspect any youth court records in order that the number
141 of youthful offenders, abused, neglected, truant and dependent
142 children, as well as children in need of special care and children
143 in need of supervision, may be tracked with specificity through
144 the youth court and adult justice system, and to utilize tracking
145 forms for such purpose.

146 (15) Upon a request by a youth court, the Administrative
147 Office of Courts shall disclose all information at its disposal
148 concerning any previous youth court intakes alleging that a child
149 was a delinquent child, child in need of supervision, child in
150 need of special care, truant child, abused child or neglected
151 child, as well as any previous youth court adjudications for the
152 same and all dispositional information concerning a child who at
153 the time of such request comes under the jurisdiction of the youth
154 court making such request.

155 (16) In every case where an abuse or neglect allegation has
156 been made, the confidentiality provisions of this section shall
157 not apply to prohibit access to a child's records by any state
158 regulatory agency, any state or local prosecutorial agency or law
159 enforcement agency; however, no identifying information concerning

160 the child in question may be released to the public by such agency
161 except as otherwise provided herein.

162 (17) In every case where there is any indication or
163 suggestion of either abuse or neglect and a child's physical
164 condition is medically labeled as medically "serious" or
165 "critical" or a child dies, the confidentiality provisions of this
166 section shall not apply. In cases of child deaths, the following
167 information may be released by the Mississippi Department of Human
168 Services: (a) child's name; (b) address or location; (c)
169 verification from the Department of Human Services of case status
170 (no case or involvement, case exists, open or active case, case
171 closed); (d) if a case exists, the type of report or case
172 (physical abuse, neglect, etc.), date of intake(s) and
173 investigation(s), and case disposition (substantiated or
174 unsubstantiated). Notwithstanding the aforesaid, the
175 confidentiality provisions of this section shall continue if there
176 is a pending or planned investigation by any local, state or
177 federal governmental agency or institution.

178 (18) Any member of a foster care review board designated by
179 the Department of Human Services shall have the right to inspect
180 youth court records relating to the abuse, neglect or child in
181 need of supervision cases assigned to such member for review.

182 (19) Information concerning an investigation into a report
183 of child abuse or child neglect may be disclosed without further
184 order of the youth court in any administrative or due process
185 hearing held, pursuant to Section 43-21-257, by the Department of
186 Human Services for individuals whose names will be placed on the
187 central registry as substantiated perpetrators.

188 **SECTION 2.** This act shall take effect and be in force from
189 and after July 1, 2007.