

By: Representative Flaggs

To: Juvenile Justice

HOUSE BILL NO. 526  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE ATTORNEY FOR A CHILD SHALL HAVE THE RIGHT TO  
3 COPY RECORDS, REPORTS OR INVESTIGATIONS THAT ARE TO BE CONSIDERED  
4 BY THE YOUTH COURT FOR A HEARING; AND FOR RELATED PURPOSES.

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

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

8 43-21-261. (1) Except as otherwise provided in this  
9 section, records involving children shall not be disclosed, other  
10 than to necessary staff of the youth court, except pursuant to an  
11 order of the youth court specifying the person or persons to whom  
12 the records may be disclosed, the extent of the records which may  
13 be disclosed and the purpose of the disclosure. Such court orders  
14 for disclosure shall be limited to those instances in which the  
15 youth court concludes, in its discretion, that disclosure is  
16 required for the best interests of the child, the public safety or  
17 the functioning of the youth court and then only to the following  
18 persons:

19 (a) The judge of another youth court or member of  
20 another youth court staff;

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

23 (c) A judge of any other court or members of another  
24 court staff;

25 (d) Representatives of a public or private agency  
26 providing supervision or having custody of the child under order  
27 of the youth court;

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

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

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

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

51           (2) Any records involving children which are disclosed under  
52 an order of the youth court or pursuant to the terms of this  
53 section and the contents thereof shall be kept confidential by the  
54 person or agency to whom the record is disclosed unless otherwise  
55 provided in the order. Any further disclosure of any records  
56 involving children shall be made only under an order of the youth  
57 court as provided in this section.

58           (3) Upon request, the parent, guardian or custodian of the  
59 child who is the subject of a youth court cause or any attorney  
60 for such parent, guardian or custodian, shall have the right to

61 inspect any record, report or investigation which is to be  
62 considered by the youth court at a hearing, except that the  
63 identity of the reporter shall not be released, nor the name of  
64 any other person where the person or agency making the information  
65 available finds that disclosure of the information would be likely  
66 to endanger the life or safety of such person.

67 (4) Upon request, the child who is the subject of a youth  
68 court cause shall have the right to have his counsel inspect and  
69 copy any record, report or investigation which is filed with the  
70 youth court or which is to be considered by the youth court at a  
71 hearing.

72 (5) (a) The youth court prosecutor or prosecutors, the  
73 county attorney, the district attorney, the youth court defender  
74 or defenders, or any attorney representing a child shall have the  
75 right to inspect and copy any law enforcement record involving  
76 children.

77 (b) The Department of Human Services shall disclose to  
78 a county prosecuting attorney or district attorney any and all  
79 records resulting from an investigation into suspected child abuse  
80 or neglect when the case has been referred by the Department of  
81 Human Services to the county prosecuting attorney or district  
82 attorney for criminal prosecution.

83 (c) Agency records made confidential under the  
84 provisions of this section may be disclosed to a court of  
85 competent jurisdiction.

86 (6) Information concerning an investigation into a report of  
87 child abuse or child neglect may be disclosed by the Department of  
88 Human Services without order of the youth court to any attorney,  
89 physician, dentist, intern, resident, nurse, psychologist, social  
90 worker, family protection worker, family protection specialist,  
91 child caregiver, minister, law enforcement officer, public or  
92 private school employee making that report pursuant to Section  
93 43-21-353(1) if the reporter has a continuing professional

94 relationship with the child and a need for such information in  
95 order to protect or treat the child.

96 (7) Information concerning an investigation into a report of  
97 child abuse or child neglect may be disclosed without further  
98 order of the youth court to any interagency child abuse task force  
99 established in any county or municipality by order of the youth  
100 court of that county or municipality.

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

105 (9) Names and addresses of juveniles adjudicated as  
106 delinquent for murder, manslaughter, burglary, arson, armed  
107 robbery, aggravated assault, any sex offense as defined in Section  
108 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
109 violation of Section 63-11-30, shall not be held confidential and  
110 shall be made available to the public.

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

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

119 (12) A classification hearing officer of the State  
120 Department of Corrections, as provided in Section 47-5-103, shall  
121 have the right to inspect any youth court records, excluding abuse  
122 and neglect records, of any offender in the custody of the  
123 department who as a child or minor was a juvenile offender or was  
124 the subject of a youth court cause of action, and the State Parole  
125 Board, as provided in Section 47-7-17, shall have the right to

126 inspect such records when the offender becomes eligible for  
127 parole.

128 (13) The youth court shall notify the Department of Public  
129 Safety of the name, and any other identifying information such  
130 department may require, of any child who is adjudicated delinquent  
131 as a result of a violation of the Uniform Controlled Substances  
132 Law.

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

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

149 (16) In every case where an abuse or neglect allegation has  
150 been made, the confidentiality provisions of this section shall  
151 not apply to prohibit access to a child's records by any state  
152 regulatory agency, any state or local prosecutorial agency or law  
153 enforcement agency; however, no identifying information concerning  
154 the child in question may be released to the public by such agency  
155 except as otherwise provided herein.

156 (17) In every case where there is any indication or  
157 suggestion of either abuse or neglect and a child's physical  
158 condition is medically labeled as medically "serious" or

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

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

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

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